



January 25, 2006

HOUSE BILL No. 1395

DIGEST OF HB 1395 (Updated January 24, 2006 1:08 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 memorandum to be prepared for the health and hospital corporation (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

January 12, 2006, read first time and referred to Committee on Public Health.
January 24, 2006, reported — Do Pass.

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January 25, 2006

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.

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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.

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

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

17 SECTION 3. IC 16-22-8-21, AS AMENDED BY P.L.184-2005,

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

11 (b) The notice must state the following:

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

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

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

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

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

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

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

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

42 SECTION 5. IC 16-22-8-34, AS AMENDED BY P.L.184-2005,

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

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

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

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

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

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

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

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

24 (E) To control:

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

28 (ii) the animal's breeding places.

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

34 (G) To control rabies.

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

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

42 (J) To detect, report, prevent, and control disease affecting

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

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1 ~~(16)~~ **(20)** To do the following:

2 (A) Adopt a schedule of reasonable charges for nonresidents

3 of the county for medical and mental health services.

4 (B) Collect the charges from the patient or from the

5 governmental unit where the patient resided at the time of the

6 service.

7 (C) Require security for the payment of the charges.

8 ~~(17)~~ **(21)** To adopt a schedule of and to collect reasonable charges

9 for patients able to pay in full or in part.

10 ~~(18)~~ **(22)** To enforce Indiana laws, administrative rules, and the

11 code of the health and hospital corporation of the county.

12 ~~(19)~~ **(23)** To purchase supplies, materials, and equipment for the

13 corporation.

14 ~~(20)~~ **(24)** To employ personnel and establish personnel policies to

15 carry out the duties, functions, and powers of the corporation.

16 ~~(21)~~ **(25)** To employ attorneys admitted to practice law in Indiana.

17 ~~(22)~~ **(26)** To acquire, erect, equip, and operate the corporation's

18 hospitals, medical facilities, and mental health facilities.

19 ~~(23)~~ **(27)** To dispose of surplus property in accordance with a

20 policy by the board.

21 ~~(24)~~ **(28)** To determine the duties of officers and division

22 directors.

23 ~~(25)~~ **(29)** To fix the compensation of the officers and division

24 directors.

25 ~~(26)~~ **(30)** To carry out the purposes and object of the corporation.

26 ~~(27)~~ **(31)** To obtain loans for hospital expenses in amounts and

27 upon terms agreeable to the board. The board may secure the

28 loans by pledging accounts receivable or other security in hospital

29 funds.

30 ~~(28)~~ **(32)** To establish fees for licenses, services, and records. The

31 corporation may accept payment by credit card for fees.

32 (b) The board shall exercise the board's powers and duties in a

33 manner consistent with Indiana law, administrative rules, and the code

34 of the health and hospital corporation of the county.

35 SECTION 6. IC 16-22-8-35 IS AMENDED TO READ AS

36 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 35. The ~~board~~

37 **corporation** shall keep accounts and records of receipts and

38 disbursements as prescribed by the state board of accounts.

39 SECTION 7. IC 36-1-6-2, AS AMENDED BY P.L.131-2005,

40 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

41 JULY 1, 2006]: Sec. 2. (a) If a condition violating an ordinance of a

42 municipal corporation exists on real property, ~~officers~~ **employees or**

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

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

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

18 (B) is unimproved; or

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

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

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

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

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

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

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

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

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

40 (e) The officer shall record a copy of each list or each instrument
 41 with the county recorder, who shall charge a fee for recording the list
 42 or instrument under the fee schedule established in IC 36-2-7-10.

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

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

15 (h) The municipal corporation shall release:
16 (1) liens filed with the county recorder after the recorded date of
17 conveyance of the property; and
18 (2) delinquent fees incurred by the seller;
19 upon receipt of a written demand from the purchaser or a representative
20 of the title insurance company or the title insurance company's agent
21 that issued a title insurance policy to the purchaser. The demand must
22 state that the delinquent fees were not incurred by the purchaser as a
23 user, lessee, or previous owner and that the purchaser has not been paid
24 by the seller for the delinquent fees.

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

29 SECTION 8. IC 36-7-9-4, AS AMENDED BY P.L.66-2005,
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2006]: Sec. 4. (a) For purposes of this chapter, a building or
32 structure, or any part of a building or structure, that is:

- 33 (1) in an impaired structural condition that makes it unsafe to a
34 person or property;
- 35 (2) a fire hazard;
- 36 (3) a hazard to the public health;
- 37 (4) a public nuisance;
- 38 (5) dangerous to a person or property because of a violation of a
39 statute or ordinance concerning building condition or
40 maintenance; or
- 41 (6) vacant and not maintained in a manner that would allow
42 human habitation, occupancy, or use under the requirements of a

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1 statute or an ordinance;
 2 is considered an unsafe building.
 3 (b) For purposes of this chapter:
 4 (1) an unsafe building; and
 5 (2) the tract of real property on which the unsafe building is
 6 located;
 7 are considered unsafe premises.
 8 (c) For purposes of this chapter, a tract of real property that does not
 9 contain a building or structure, not including land used for production
 10 agriculture, is considered an unsafe premises if the tract of real
 11 property is:
 12 (1) a fire hazard;
 13 (2) a hazard to public health;
 14 (3) a public nuisance; or
 15 (4) dangerous to a person or property because of a violation of a
 16 statute or an ordinance.
 17 SECTION 9. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The enforcement authority
 19 may issue an order requiring action relative to any unsafe premises,
 20 including:
 21 (1) vacating of an unsafe building;
 22 (2) sealing an unsafe building against intrusion by unauthorized
 23 persons, in accordance with a uniform standard established by
 24 ordinance;
 25 (3) extermination of vermin in and about the unsafe premises;
 26 (4) removal of trash, debris, ~~or~~ fire hazardous material, **or a**
 27 **public health hazard** in and about the unsafe premises;
 28 (5) repair or rehabilitation of an unsafe building to bring it into
 29 compliance with standards for building condition or maintenance
 30 required for human habitation, occupancy, or use by a statute, a
 31 rule adopted under IC 4-22-2, or an ordinance;
 32 (6) removal of part of an unsafe building;
 33 (7) removal of an unsafe building; and
 34 (8) requiring, for an unsafe building that will be sealed for a
 35 period of more than ninety (90) days:
 36 (A) sealing against intrusion by unauthorized persons and the
 37 effects of weather;
 38 (B) exterior improvements to make the building compatible in
 39 appearance with other buildings in the area; and
 40 (C) continuing maintenance and upkeep of the building and
 41 premises;
 42 in accordance with standards established by ordinance.

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1 Notice of the order must be given under section 25 of this chapter. The
2 ordered action must be reasonably related to the condition of the unsafe
3 premises and the nature and use of nearby properties. The order
4 supersedes any permit relating to building or land use, whether that
5 permit is obtained before or after the order is issued.

- 6 (b) The order must contain:
 - 7 (1) the name of the person to whom the order is issued;
 - 8 (2) the legal description or address of the unsafe premises that are
9 the subject of the order;
 - 10 (3) the action that the order requires;
 - 11 (4) the period of time in which the action is required to be
12 accomplished, measured from the time when the notice of the
13 order is given;
 - 14 (5) if a hearing is required, a statement indicating the exact time
15 and place of the hearing, and stating that person to whom the
16 order was issued is entitled to appear at the hearing with or
17 without legal counsel, present evidence, cross-examine opposing
18 witnesses, and present arguments;
 - 19 (6) if a hearing is not required, a statement that an order under
20 subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)
21 days after notice is given, unless a hearing is requested in writing
22 by a person holding a fee interest, life estate interest, or equitable
23 interest of a contract purchaser in the unsafe premises, and the
24 request is delivered to the enforcement authority before the end
25 of the ten (10) day period;
 - 26 (7) a statement briefly indicating what action can be taken by the
27 enforcement authority if the order is not complied with;
 - 28 (8) a statement indicating the obligation created by section 27 of
29 this chapter relating to notification of subsequent interest holders
30 and the enforcement authority; and
 - 31 (9) the name, address, and telephone number of the enforcement
32 authority.

33 (c) The order must allow a sufficient time, of at least ten (10) days,
34 but not more than sixty (60) days, from the time when notice of the
35 order is given, to accomplish the required action. If the order allows
36 more than thirty (30) days to accomplish the action, the order may
37 require that a substantial beginning be made in accomplishing the
38 action within thirty (30) days.

39 (d) The order expires two (2) years from the day the notice of the
40 order is given, unless one (1) or more of the following events occurs
41 within that two (2) year period:

- 42 (1) A complaint requesting judicial review is filed under section

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1 9 of this chapter.
2 (2) A contract for action required by the order is let at public bid
3 under section 11 of this chapter.
4 (3) A civil action is filed under section 17 of this chapter.
5 SECTION 10. IC 33-36-3-4 IS REPEALED [EFFECTIVE JULY 1,
6 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.

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