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# HOUSE BILL No. 1398

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-22.

**Synopsis:** Marion County airport board and airport land use. Provides that the airport authority board established for Marion County consists of six members appointed by the mayor of the consolidated city, one member appointed by each county within which the airport authority owns real property (not including Marion County), and two members appointed by the governor. Provides that, to display advertising on a sign or billboard located on airport land, a board of aviation commissioners, an airport authority board, a lessee of a board, or a lessee's assigns must comply with all state laws and all local zoning ordinances and regulations (to the extent the local zoning ordinances and regulations do not compromise the operational safety of the airport and are not superseded by the airport zoning authority of the airport board and the governmental entity that owns the airport). Repeals the current statute governing membership on the airport authority board for Marion County.

**Effective:** July 1, 2006.

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### Whetstone

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January 12, 2006, read first time and referred to Committee on Local Government.

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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. 1398



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

1 SECTION 1. IC 8-22-1-4.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. (a) "Aviation  
3 related property or facilities" means those properties or facilities that  
4 are utilized by a lessee, or a lessee's assigns, who provides services or  
5 accommodations:

- 6 (1) for scheduled or unscheduled air carriers and air taxis, and
- 7 their passengers, air cargo operations, and related ground
- 8 transportation facilities;
- 9 (2) for fixed based operations;
- 10 (3) for general aviation or military users; and
- 11 (4) as aviation maintenance and repair facilities.

12 (b) The term includes any property leased to the United States, or its  
13 agencies or instrumentalities, and any leased property identified as  
14 clear zones, ~~aviation~~ **aviation** easements, safety and transition areas,  
15 as defined by the Federal Aviation Administration.

16 (c) **Except as provided in subsection (b), the term does not**  
17 **include property containing a sign or billboard that displays**



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**advertising.**

SECTION 2. IC 8-22-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12.5. (a) Subject to subsection (b), the board, a lessee of the board, or a lessee's assigns may locate signs and billboards on airport land for the purpose of displaying advertising.**

**(b) To display advertising on a sign or billboard that is located on airport land, the board, a lessee of the board, or a lessee's assigns must comply with:**

**(1) state law; and**

**(2) local zoning ordinances and regulations that:**

**(A) do not affect the operational safety of the airport; and**

**(B) are not superseded by the zoning authority granted under section 9 of this chapter.**

SECTION 3. IC 8-22-3-4, AS AMENDED BY P.L.134-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a)** Except as provided in subsections (b), (c), (d), (e), (f), and (g) and section 4.3 of this chapter, the board consists of four (4) members, whenever the fiscal body of an eligible entity, acting individually, establishes an authority. The members of the board shall be appointed by the executive of the entity, and not more than two (2) members of the board may be of the same political party.

**(b)** In the event that two (2) cities or one (1) city and one (1) town act jointly to establish an authority under this chapter, the board consists of five (5) members. The executive of each city or town shall each appoint two (2) members to the board. The county executive shall appoint one (1) member to the board. Each member appointed by an executive must be of a different political party than the other appointed member.

**(c)** In the event that an authority is established by a city or town and a county, acting jointly, the board consists of six (6) members. The executive of each entity shall appoint three (3) members. Not more than two (2) members appointed by each executive may be of the same political party.

**(d)** In the event that an authority was established under IC 19-6-3 (before its repeal on April 1, 1980) the board consists of five (5) members. Three (3) members of the board shall be appointed by the mayor of the city, and two (2) members of the board shall be appointed by the board of commissioners of the county. Not more than two (2) members representing the city may be members of the same political party, and not more than one (1) member representing the county may be a member of the same political party.

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1 (e) Except as provided in ~~section 4.1(b)(3)~~ **section 4.4(b)(2)** of this  
2 chapter, the county executive of each Indiana county that is adjacent to  
3 a county establishing an authority under this chapter and in which the  
4 authority owns real property may appoint one (1) advisory member to  
5 the board. An advisory member who is appointed under this subsection:

- 6 (1) must be a resident of the adjacent county;
- 7 (2) may not vote on any matter before the board;
- 8 (3) serves at the pleasure of the appointing authority; and
- 9 (4) serves without compensation or payment for expenses.

10 (f) The board of an authority established in a city that has a  
11 population of more than sixteen thousand six hundred (16,600) but less  
12 than seventeen thousand four hundred (17,400) consists of five (5)  
13 members. The members of the board shall be appointed by the  
14 executive of the eligible entity, and not more than three (3) members  
15 of the board may be of the same political party.

16 (g) This subsection does not apply to a board subject to subsection  
17 (b), (c), (d), or (f). Notwithstanding subsection (a), the fiscal body of  
18 an eligible entity may adopt an ordinance or a resolution providing that  
19 the board consists of five (5) members. If the board consists of five (5)  
20 members, not more than three (3) members may be of the same  
21 political party.

22 SECTION 4. IC 8-22-3-4.4 IS ADDED TO THE INDIANA CODE  
23 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
24 **1, 2006]: Sec. 4.4. (a) This section applies only to the board of an**  
25 **airport authority established for a county having a consolidated**  
26 **city.**

27 **(b) The board consists of the following members:**  
28 **(1) Six (6) members appointed by the mayor of the**  
29 **consolidated city. Each member appointed under this**  
30 **subdivision must be a resident of the county having the**  
31 **consolidated city.**

32 **(2) One (1) member appointed by the county executive of each**  
33 **county (not including a county having a consolidated city) in**  
34 **which the airport authority owns real property. The county**  
35 **executive of a county represented on the board under this**  
36 **subdivision may not appoint an advisory member under**  
37 **section 4(e) of this chapter.**

38 **(3) Two (2) members appointed by the governor.**

39 **(c) The mayor of the consolidated city shall appoint one (1)**  
40 **member under subsection (b)(1) for each township in the county**  
41 **having a consolidated city in which the airport authority owns**  
42 **property. A member appointed under this subsection must be a**

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- 1 **resident of the township.**
- 2 **(d) Not more than three (3) members appointed under**
- 3 **subsection (b)(1) may be of the same political party.**
- 4 **(e) A member holds office for four (4) years and until the**
- 5 **member's successor is appointed and qualified.**
- 6 **(f) If a vacancy occurs on the board, the authority that**
- 7 **appointed the member that vacated the board shall appoint an**
- 8 **individual to serve for the remainder of the unexpired term.**
- 9 **(g) A member may be reappointed to successive terms.**
- 10 **(h) A member may be impeached under the procedure provided**
- 11 **for the impeachment of county officers.**
- 12 **(i) A member appointed under subsection (b)(2) or (b)(3) may**
- 13 **not vote on a matter before the board relating to imposing,**
- 14 **increasing, or decreasing property taxes in the county having the**
- 15 **consolidated city.**
- 16 SECTION 5. IC 8-22-3-5, AS AMENDED BY P.L.134-2005,
- 17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2006]: Sec. 5. (a) This subsection applies only in counties that
- 19 contain a consolidated city or at least one (1) second class city. To be
- 20 eligible to be a member of the board, a person must have the following
- 21 qualifications:
- 22 (1) Be at least eighteen (18) years old.
- 23 (2) ~~Except as provided in section 4.1 of this chapter,~~ Be a resident
- 24 of the county in which the eligible entity is located.
- 25 (3) Not be actively engaged or employed in commercial
- 26 aeronautics.
- 27 (4) Not hold any other governmental office (by appointment or
- 28 election) that has statutory fiscal or management review of the
- 29 board's actions.
- 30 (5) Not serve as a member of any other agency, board,
- 31 commission, department, or other governmental entity that:
- 32 (A) is located within the jurisdiction of the authority; and
- 33 (B) has statutory fiscal or management review of the
- 34 authority's actions.
- 35 (b) This subsection does not apply to a county if the county contains
- 36 a consolidated city or a second class city. To be eligible to be a member
- 37 of the board, a person must:
- 38 (1) be at least eighteen (18) years of age;
- 39 (2) be a resident of the county in which the eligible entity is
- 40 located; and
- 41 (3) not be actively engaged or employed in commercial
- 42 aeronautics in a county that the board serves.

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1 SECTION 6. IC 8-22-3-11 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The board may do  
 3 all acts necessary or reasonably incident to carrying out the purposes  
 4 of this chapter, including the following:

5 (1) As a municipal corporation, to sue and be sued in its own  
 6 name.

7 (2) To have all the powers and duties conferred by statute upon  
 8 boards of aviation commissioners. The board supersedes all  
 9 boards of aviation commissioners within the district. The board  
 10 has exclusive jurisdiction within the district.

11 (3) To protect all property owned or managed by the board.

12 (4) To adopt an annual budget and levy taxes in accordance with  
 13 this chapter.

14 (A) The board may not levy taxes on property in excess of the  
 15 following rate schedule, except as provided in sections 17 and  
 16 25 of this chapter:

17 Total Assessed 18 Property Valuation	Rate Per \$100 Of Assessed Valuation
19 \$300 million or less	\$0.10
20 More than \$300 million	
21 but not more than \$450 million	\$0.0833
22 More than \$450 million	
23 but not more than \$600 million	\$0.0667
24 More than \$600 million	
25 but not more than \$900 million	\$0.05
26 More than \$900 million	\$0.0333

27 (B) Clause (A) does not apply to an authority that was  
 28 established under IC 19-6-2 or IC 19-6-3 (before their repeal on  
 29 April 1, 1980).

30 (C) The board of an authority that was established under  
 31 IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on  
 32 property not in excess of six and sixty-seven hundredths cents  
 33 (\$0.0667) on each one hundred dollars (\$100) of assessed  
 34 valuation.

35 (5) To incur indebtedness in the name of the authority in  
 36 accordance with this chapter.

37 (6) To adopt administrative procedures, rules, and regulations.

38 (7) To acquire property, real, personal, or mixed, by deed,  
 39 purchase, lease, condemnation, or otherwise and dispose of it for  
 40 use or in connection with or for administrative purposes of the  
 41 airport; to receive gifts, donations, bequests, and public trusts and  
 42 to agree to conditions and terms accompanying them and to bind

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1 the authority to carry them out; to receive and administer federal  
 2 or state aid; and to erect buildings or structures that may be needed  
 3 to administer and carry out this chapter.  
 4 (8) To determine matters of policy regarding internal organization  
 5 and operating procedures not specifically provided for otherwise.  
 6 (9) To adopt a schedule of reasonable charges and to collect them  
 7 from all users of facilities and services within the district.  
 8 (10) To purchase supplies, materials, and equipment to carry out  
 9 the duties and functions of the board in accordance with  
 10 procedures adopted by the board.  
 11 (11) To employ personnel that are necessary to carry out the duties,  
 12 functions, and powers of the board.  
 13 (12) To establish an employee pension plan. The board may, upon  
 14 due investigation, authorize and begin a fair and reasonable  
 15 pension or retirement plan and program for personnel, the cost to  
 16 be borne by either the authority or by the employee or by both, as  
 17 the board determines. If the authority was established under  
 18 IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must  
 19 be borne by the authority, and ordinances creating the plan or  
 20 making changes in it must be approved by the mayor of the city.  
 21 The plan may be administered and funded by a trust fund or by  
 22 insurance purchased from an insurance company licensed to do  
 23 business in Indiana or by a combination of them. The board may  
 24 also include in the plan provisions for life insurance, disability  
 25 insurance, or both.  
 26 (13) To sell surplus real or personal property in accordance with  
 27 law. If the board negotiates an agreement to sell trees situated in  
 28 woods or forest areas owned by the board, the trees are considered  
 29 to be personal property of the board for severance or sale.  
 30 (14) To adopt and use a seal.  
 31 (15) To acquire, establish, construct, improve, equip, maintain,  
 32 control, lease, and regulate municipal airports, landing fields, and  
 33 other air navigation facilities, either inside or outside the district;  
 34 to acquire by lease (with or without the option to purchase)  
 35 airports, landing fields, or navigation facilities, and any structures,  
 36 equipment, or related improvements; and to erect, install,  
 37 construct, and maintain at the airport or airports facilities for the  
 38 servicing of aircraft and for the comfort and accommodation of air  
 39 travelers and the public. The Indiana department of transportation  
 40 must grant its approval before land may be purchased for the  
 41 establishment of an airport or landing field and before an airport or  
 42 landing field may be established.

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- 1 (16) To fix and determine exclusively the uses to which the airport
- 2 lands may be put. All uses must be necessary or desirable to the
- 3 airport or the aviation industry and must be compatible with the
- 4 uses of the surrounding lands as far as practicable. **The board may**
- 5 **locate signs and billboards on airport lands for the purpose of**
- 6 **displaying advertising, subject to section 11.5 of this chapter.**
- 7 (17) To elect a secretary from its membership, or to employ a
- 8 secretary, an airport director, superintendents, managers, a
- 9 treasurer, engineers, surveyors, attorneys, clerks, guards,
- 10 mechanics, laborers, and all employees the board considers
- 11 expedient, and to prescribe and assign their respective duties and
- 12 authorities and to fix and regulate the compensation to be paid to
- 13 the persons employed by it in accordance with the authority's
- 14 appropriations. All employees shall be selected irrespective of their
- 15 political affiliations.
- 16 (18) To make all rules and regulations, consistent with laws
- 17 regarding air commerce, for the management and control of its
- 18 airports, landing fields, air navigation facilities, and other property
- 19 under its control.
- 20 (19) To acquire by lease the use of an airport or landing field for
- 21 aircraft pending the acquisition and improvement of an airport or
- 22 landing field.
- 23 (20) To manage and operate airports, landing fields, and other air
- 24 navigation facilities acquired or maintained by an authority; to
- 25 lease all or part of an airport, landing field, or any buildings or
- 26 other structures, and to fix, charge, and collect rentals, tolls, fees,
- 27 and charges to be paid for the use of the whole or a part of the
- 28 airports, landing fields, or other air navigation facilities by aircraft
- 29 landing there and for the servicing of the aircraft; to construct
- 30 public recreational facilities that will not interfere with air
- 31 operational facilities; to fix, charge, and collect fees for public
- 32 admissions and privileges; and to make contracts for the operation
- 33 and management of the airports, landing fields, and other air
- 34 navigation facilities; and to provide for the use, management, and
- 35 operation of the air navigation facilities through lessees, its own
- 36 employees, or otherwise. Contracts or leases for the maintenance,
- 37 operation, or use of the airport or any part of it may be made for a
- 38 term not exceeding fifteen (15) years and may be extended for
- 39 similar terms of years, except that any parcels of the land of the
- 40 airport may be leased for any use connected with the operation and
- 41 convenience of the airport for an initial term not exceeding forty
- 42 (40) years and may be extended for a period not to exceed ten (10)

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1 years. If a person whose character, experience, and financial  
 2 responsibility has been determined satisfactory by the board offers  
 3 to erect a permanent structure that facilitates and is consistent with  
 4 the operation, use, and purpose of the airport on land belonging to  
 5 the airport, a lease may be entered into for a period not to exceed  
 6 ninety-nine (99) years. However, the board must pass an ordinance  
 7 to enter into such a lease. The board may not grant an exclusive  
 8 right for the use of a landing area under its jurisdiction. However,  
 9 this does not prevent the making of leases in accordance with other  
 10 provisions of this chapter. All contracts and leases are subject to  
 11 restrictions and conditions that the board prescribes. The authority  
 12 may lease its property and facilities for any commercial or  
 13 industrial use it considers necessary and proper, including the use  
 14 of providing airport motel facilities.

15 (21) To sell machinery, equipment, or material that is not required  
 16 for aviation purposes. The proceeds shall be deposited with the  
 17 treasurer of the authority.

18 (22) To negotiate and execute contracts for sale or purchase, lease,  
 19 personal services, materials, supplies, equipment, or any other  
 20 transaction or business relative to an airport under the board's  
 21 control and operation. However, whenever the board determines to  
 22 sell part or all of aviation lands, buildings, or improvements owned  
 23 by the authority, the sale must be in accordance with law.

24 (23) To vacate all or parts of roads, highways, streets, or alleys,  
 25 whether inside or outside the district, in the manner provided by  
 26 statute.

27 (24) To annex lands to itself if the lands are owned by the authority  
 28 or are streets, roads, or other public ways.

29 (25) To approve any state, county, city, or other highway, road,  
 30 street, or other public way, railroad, power line, or other  
 31 right-of-way to be laid out or opened across an airport or in such  
 32 proximity as to affect the safe operation of the airport.

33 (26) To construct drainage and sanitary sewers with connections  
 34 and outlets as are necessary for the proper drainage and  
 35 maintenance of an airport or landing field acquired or maintained  
 36 under this chapter, including the necessary buildings and  
 37 improvements and for the public use of them in the same manner  
 38 that the authority may construct sewers and drains. However, with  
 39 respect to the construction of drains and sanitary sewers beyond  
 40 the boundaries of the airport or landing field, the board shall  
 41 proceed in the same manner as private owners of property and may  
 42 institute proceedings and negotiate with the departments, bodies,

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1 and officers of an eligible entity to secure the proper orders and  
 2 approvals; and to order a public utility or public service  
 3 corporation or other person to remove or to install in underground  
 4 conduits wires, cables, and power lines passing through or over the  
 5 airport or landing field or along the borders or within a reasonable  
 6 distance that may be determined to be necessary for the safety of  
 7 operations, upon payment to the utility or other person of due  
 8 compensation for the expense of the removal or reinstallation. The  
 9 board must consent before any franchise may be granted by state  
 10 or local authorities for the construction of or maintenance of  
 11 railway, telephone, telegraph, electric power, pipe, or conduit line  
 12 upon, over, or through land under the control of the board or within  
 13 a reasonable distance of land that is necessary for the safety of  
 14 operation. The board must also consent before overhead electric  
 15 power lines carrying a voltage of more than four thousand four  
 16 hundred (4,400) volts and having poles, standards, or supports over  
 17 thirty (30) feet in height within one-half (1/2) mile of a landing  
 18 area acquired or maintained under this chapter may be installed.

19 (27) To contract with any other state agency or instrumentality or  
 20 any political subdivision for the rendition of services, the rental or  
 21 use of equipment or facilities, or the joint purchase and use of  
 22 equipment or facilities that are necessary for the operation,  
 23 maintenance, or construction of an airport operated under this  
 24 chapter.

25 (28) To provide air transportation in furtherance of the duties and  
 26 responsibilities of the board.

27 (29) To promote or encourage aviation-related trade or commerce  
 28 at the airports that it operates.

29 SECTION 7. IC 8-22-3-11.5 IS ADDED TO THE INDIANA CODE  
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 31 1, 2006]: **Sec. 11.5. To display advertising on a sign or billboard  
 32 that is located on airport land, the board, a lessee of the board, or  
 33 a lessee's assigns must comply with:**

34 (1) state law; and

35 (2) local zoning ordinances and regulations that:

36 (A) do not affect the operational safety of the airport; and

37 (B) are not superseded by the zoning authority granted  
 38 under IC 8-22-3-14.

39 SECTION 8. IC 8-22-3-4.1 IS REPEALED [EFFECTIVE JULY 1,  
 40 2006].

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