



Reprinted
February 5, 2013

HOUSE BILL No. 1357

DIGEST OF HB 1357 (Updated February 4, 2013 4:03 pm - DI 71)

Citations Affected: IC 20-18; IC 20-23; IC 20-25; IC 20-26; IC 20-28.

Synopsis: School administrators. Provides that a superintendent of schools is not required to hold a teacher's or superintendent's license. Repeals a requirement that a county superintendent of schools must have five years of successful teaching experience and hold a superintendent's license.

Effective: July 1, 2013.

Huston, Turner

January 22, 2013, read first time and referred to Committee on Education.
January 31, 2013, reported — Do Pass.
February 4, 2013, read second time, amended, ordered engrossed.

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HB 1357—LS 6816/DI 116+



Reprinted
February 5, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

HOUSE BILL No. 1357

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

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

- 1 SECTION 1. IC 20-18-2-22, AS AMENDED BY P.L.90-2011,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 22. (a) "Teacher" means a professional person
4 whose position in a school corporation requires certain educational
5 preparation and licensing and whose primary responsibility is the
6 instruction of students.
7 (b) For purposes of IC 20-28, the term includes the following:
8 (1) A superintendent **who holds a license under IC 20-28-5.**
9 (2) A principal.
10 (3) A teacher.
11 (4) A librarian.
12 SECTION 2. IC 20-23-2-7 IS REPEALED [EFFECTIVE JULY 1,
13 2013]. Sec. 7. (a) A person may not hold the office of county
14 superintendent unless the person:
15 (1) has at least five (5) years successful experience as a teacher in
16 the public schools; and
17 (2) holds, at the time of the person's election, a first or second

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1 grade superintendent's license:

2 (b) This chapter does not:

3 (1) apply to; or

4 (2) disqualify;

5 an incumbent of the office of county superintendent:

6 SECTION 3. IC 20-23-7-10, AS ADDED BY P.L.1-2005,
7 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]: Sec. 10. (a) The metropolitan board of education shall
9 appoint a metropolitan superintendent of schools who shall serve under
10 contract in the same manner and under the same laws that govern the
11 employment and service of other licensed school personnel. **However,**
12 **the metropolitan superintendent of schools is not required to hold**
13 **a license under IC 20-28-5.** The metropolitan superintendent of
14 schools' salary and expense allowance is fixed by the metropolitan
15 board of education. The metropolitan superintendent of schools'
16 original contract:

17 (1) must be for a period of one (1) to five (5) years; and

18 (2) may be changed or extended by mutual agreement.

19 (b) Appointments to fill a vacancy for a metropolitan superintendent
20 of schools shall be made under this chapter.

21 (c) The board shall:

22 (1) act upon the recommendations of the metropolitan
23 superintendent of schools; and

24 (2) make other decisions and perform other duties as required by
25 law.

26 (d) A:

27 (1) county superintendent;

28 (2) city school superintendent; or

29 (3) town superintendent;

30 in a metropolitan school district shall continue in the superintendents'
31 respective employment at the same salary, paid in the same manner and
32 according to the same terms as agreed to before the formation of the
33 metropolitan school district.

34 (e) A metropolitan board of education shall:

35 (1) assign administrative duties; and

36 (2) designate:

37 (A) one (1) of the superintendents in the metropolitan school
38 district; or

39 (B) a competent and qualified person as determined by the
40 board;

41 to perform the duties of the metropolitan superintendent of the
42 metropolitan school district as set forth in this chapter.

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1 (f) A metropolitan board of education shall appoint a superintendent
2 of the metropolitan school district and other administrative supervisory
3 officers as provided in this chapter if:

- 4 (1) the previous superintendent's term expired;
- 5 (2) the previous superintendent's contract of employment ended;
- 6 or
- 7 (3) the previous superintendent:
 - 8 (A) died; or
 - 9 (B) resigned.

10 (g) The appointment and salary of the metropolitan superintendent
11 of schools appointed under subsection (f) shall be made, set, and paid
12 as provided in this chapter.

13 SECTION 4. IC 20-25-2-2, AS ADDED BY P.L.1-2005, SECTION
14 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
15 2013]: Sec. 2. "Administrator" means a full-time employee of a school
16 in the school city who is:

- 17 (1) a principal;
- 18 (2) an assistant principal; ~~or~~
- 19 **(3) a superintendent;**
- 20 **(4) an assistant superintendent; or**
- 21 ~~(5)~~ **(5)** any other educational manager at the school.

22 SECTION 5. IC 20-26-5-4, AS AMENDED BY P.L.145-2012,
23 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2013]: Sec. 4. In carrying out the school purposes of a school
25 corporation, the governing body acting on the school corporation's
26 behalf has the following specific powers:

- 27 (1) In the name of the school corporation, to sue and be sued and
28 to enter into contracts in matters permitted by applicable law.
29 However, a governing body may not use funds received from the
30 state to bring or join in an action against the state, unless the
31 governing body is challenging an adverse decision by a state
32 agency, board, or commission.
- 33 (2) To take charge of, manage, and conduct the educational affairs
34 of the school corporation and to establish, locate, and provide the
35 necessary schools, school libraries, other libraries where
36 permitted by law, other buildings, facilities, property, and
37 equipment.
- 38 (3) To appropriate from the school corporation's general fund an
39 amount, not to exceed the greater of three thousand dollars
40 (\$3,000) per budget year or one dollar (\$1) per pupil, not to
41 exceed twelve thousand five hundred dollars (\$12,500), based on
42 the school corporation's previous year's ADM, to promote the best

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1 interests of the school corporation through:

2 (A) the purchase of meals, decorations, memorabilia, or
3 awards;

4 (B) provision for expenses incurred in interviewing job
5 applicants; or

6 (C) developing relations with other governmental units.

7 (4) To:

8 (A) Acquire, construct, erect, maintain, hold, and contract for
9 construction, erection, or maintenance of real estate, real estate
10 improvements, or an interest in real estate or real estate
11 improvements, as the governing body considers necessary for
12 school purposes, including buildings, parts of buildings,
13 additions to buildings, rooms, gymnasiums, auditoriums,
14 playgrounds, playing and athletic fields, facilities for physical
15 training, buildings for administrative, office, warehouse, repair
16 activities, or housing school owned buses, landscaping, walks,
17 drives, parking areas, roadways, easements and facilities for
18 power, sewer, water, roadway, access, storm and surface
19 water, drinking water, gas, electricity, other utilities and
20 similar purposes, by purchase, either outright for cash (or
21 under conditional sales or purchase money contracts providing
22 for a retention of a security interest by the seller until payment
23 is made or by notes where the contract, security retention, or
24 note is permitted by applicable law), by exchange, by gift, by
25 devise, by eminent domain, by lease with or without option to
26 purchase, or by lease under IC 20-47-2, IC 20-47-3, or
27 IC 20-47-5.

28 (B) Repair, remodel, remove, or demolish, or to contract for
29 the repair, remodeling, removal, or demolition of the real
30 estate, real estate improvements, or interest in the real estate
31 or real estate improvements, as the governing body considers
32 necessary for school purposes.

33 (C) Provide for conservation measures through utility
34 efficiency programs or under a guaranteed savings contract as
35 described in IC 36-1-12.5.

36 (5) To acquire personal property or an interest in personal
37 property as the governing body considers necessary for school
38 purposes, including buses, motor vehicles, equipment, apparatus,
39 appliances, books, furniture, and supplies, either by cash purchase
40 or under conditional sales or purchase money contracts providing
41 for a security interest by the seller until payment is made or by
42 notes where the contract, security, retention, or note is permitted

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1 by applicable law, by gift, by devise, by loan, or by lease with or
2 without option to purchase and to repair, remodel, remove,
3 relocate, and demolish the personal property. All purchases and
4 contracts specified under the powers authorized under subdivision
5 (4) and this subdivision are subject solely to applicable law
6 relating to purchases and contracting by municipal corporations
7 in general and to the supervisory control of state agencies as
8 provided in section 6 of this chapter.

9 (6) To sell or exchange real or personal property or interest in real
10 or personal property that, in the opinion of the governing body, is
11 not necessary for school purposes, in accordance with IC 20-26-7,
12 to demolish or otherwise dispose of the property if, in the opinion
13 of the governing body, the property is not necessary for school
14 purposes and is worthless, and to pay the expenses for the
15 demolition or disposition.

16 (7) To lease any school property for a rental that the governing
17 body considers reasonable or to permit the free use of school
18 property for:

- 19 (A) civic or public purposes; or
- 20 (B) the operation of a school age child care program for
21 children who are at least five (5) years of age and less than
22 fifteen (15) years of age that operates before or after the school
23 day, or both, and during periods when school is not in session;
24 if the property is not needed for school purposes. Under this
25 subdivision, the governing body may enter into a long term lease
26 with a nonprofit corporation, community service organization, or
27 other governmental entity, if the corporation, organization, or
28 other governmental entity will use the property to be leased for
29 civic or public purposes or for a school age child care program.
30 However, if payment for the property subject to a long term lease
31 is made from money in the school corporation's debt service fund,
32 all proceeds from the long term lease must be deposited in the
33 school corporation's debt service fund so long as payment for the
34 property has not been made. The governing body may, at the
35 governing body's option, use the procedure specified in
36 IC 36-1-11-10 in leasing property under this subdivision.

37 (8) To:
38 (A) Employ, contract for, and discharge superintendents (**who**
39 **are not required to hold a license under IC 20-28-5**),
40 supervisors, principals, teachers, librarians, athletic coaches
41 (whether or not they are otherwise employed by the school
42 corporation and whether or not they are licensed under

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1 IC 20-28-5), business managers, superintendents of buildings
 2 and grounds, janitors, engineers, architects, physicians,
 3 dentists, nurses, accountants, teacher aides performing
 4 noninstructional duties, educational and other professional
 5 consultants, data processing and computer service for school
 6 purposes, including the making of schedules, the keeping and
 7 analyzing of grades and other student data, the keeping and
 8 preparing of warrants, payroll, and similar data where
 9 approved by the state board of accounts as provided below,
 10 and other personnel or services as the governing body
 11 considers necessary for school purposes.
 12 (B) Fix and pay the salaries and compensation of persons and
 13 services described in this subdivision that are consistent with
 14 IC 20-28-9-1.
 15 (C) Classify persons or services described in this subdivision
 16 and to adopt schedules of salaries or compensation that are
 17 consistent with IC 20-28-9-1.
 18 (D) Determine the number of the persons or the amount of the
 19 services employed or contracted for as provided in this
 20 subdivision.
 21 (E) Determine the nature and extent of the duties of the
 22 persons described in this subdivision.
 23 The compensation, terms of employment, and discharge of
 24 teachers are, however, subject to and governed by the laws
 25 relating to employment, contracting, compensation, and discharge
 26 of teachers. The compensation, terms of employment, and
 27 discharge of bus drivers are subject to and governed by laws
 28 relating to employment, contracting, compensation, and discharge
 29 of bus drivers. The forms and procedures relating to the use of
 30 computer and data processing equipment in handling the financial
 31 affairs of the school corporation must be submitted to the state
 32 board of accounts for approval so that the services are used by the
 33 school corporation when the governing body determines that it is
 34 in the best interest of the school corporation while at the same
 35 time providing reasonable accountability for the funds expended.
 36 (9) Notwithstanding the appropriation limitation in subdivision
 37 (3), when the governing body by resolution considers a trip by an
 38 employee of the school corporation or by a member of the
 39 governing body to be in the interest of the school corporation,
 40 including attending meetings, conferences, or examining
 41 equipment, buildings, and installation in other areas, to permit the
 42 employee to be absent in connection with the trip without any loss

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- 1 in pay and to reimburse the employee or the member the
2 employee's or member's reasonable lodging and meal expenses
3 and necessary transportation expenses. To pay teaching personnel
4 for time spent in sponsoring and working with school related trips
5 or activities.
- 6 (10) Subject to IC 20-27-13, to transport children to and from
7 school, when in the opinion of the governing body the
8 transportation is necessary, including considerations for the safety
9 of the children and without regard to the distance the children live
10 from the school. The transportation must be otherwise in
11 accordance with applicable law.
- 12 (11) To provide a lunch program for a part or all of the students
13 attending the schools of the school corporation, including the
14 establishment of kitchens, kitchen facilities, kitchen equipment,
15 lunch rooms, the hiring of the necessary personnel to operate the
16 lunch program, and the purchase of material and supplies for the
17 lunch program, charging students for the operational costs of the
18 lunch program, fixing the price per meal or per food item. To
19 operate the lunch program as an extracurricular activity, subject
20 to the supervision of the governing body. To participate in a
21 surplus commodity or lunch aid program.
- 22 (12) To purchase textbooks, to furnish textbooks without cost or
23 to rent textbooks to students, to participate in a textbook aid
24 program, all in accordance with applicable law.
- 25 (13) To accept students transferred from other school corporations
26 and to transfer students to other school corporations in accordance
27 with applicable law.
- 28 (14) To make budgets, to appropriate funds, and to disburse the
29 money of the school corporation in accordance with applicable
30 law. To borrow money against current tax collections and
31 otherwise to borrow money, in accordance with IC 20-48-1.
- 32 (15) To purchase insurance or to establish and maintain a
33 program of self-insurance relating to the liability of the school
34 corporation or the school corporation's employees in connection
35 with motor vehicles or property and for additional coverage to the
36 extent permitted and in accordance with IC 34-13-3-20. To
37 purchase additional insurance or to establish and maintain a
38 program of self-insurance protecting the school corporation and
39 members of the governing body, employees, contractors, or agents
40 of the school corporation from liability, risk, accident, or loss
41 related to school property, school contract, school or school
42 related activity, including the purchase of insurance or the

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1 establishment and maintenance of a self-insurance program
 2 protecting persons described in this subdivision against false
 3 imprisonment, false arrest, libel, or slander for acts committed in
 4 the course of the persons' employment, protecting the school
 5 corporation for fire and extended coverage and other casualty
 6 risks to the extent of replacement cost, loss of use, and other
 7 insurable risks relating to property owned, leased, or held by the
 8 school corporation. In accordance with IC 20-26-17, to:

9 (A) participate in a state employee health plan under
 10 IC 5-10-8-6.6 or IC 5-10-8-6.7;

11 (B) purchase insurance; or

12 (C) establish and maintain a program of self-insurance;
 13 to benefit school corporation employees, including accident,
 14 sickness, health, or dental coverage, provided that a plan of
 15 self-insurance must include an aggregate stop-loss provision.

16 (16) To make all applications, to enter into all contracts, and to
 17 sign all documents necessary for the receipt of aid, money, or
 18 property from the state, the federal government, or from any other
 19 source.

20 (17) To defend a member of the governing body or any employee
 21 of the school corporation in any suit arising out of the
 22 performance of the member's or employee's duties for or
 23 employment with, the school corporation, if the governing body
 24 by resolution determined that the action was taken in good faith.
 25 To save any member or employee harmless from any liability,
 26 cost, or damage in connection with the performance, including the
 27 payment of legal fees, except where the liability, cost, or damage
 28 is predicated on or arises out of the bad faith of the member or
 29 employee, or is a claim or judgment based on the member's or
 30 employee's malfeasance in office or employment.

31 (18) To prepare, make, enforce, amend, or repeal rules,
 32 regulations, and procedures:

33 (A) for the government and management of the schools,
 34 property, facilities, and activities of the school corporation, the
 35 school corporation's agents, employees, and pupils and for the
 36 operation of the governing body; and

37 (B) that may be designated by an appropriate title such as
 38 "policy handbook", "bylaws", or "rules and regulations".

39 (19) To ratify and approve any action taken by a member of the
 40 governing body, an officer of the governing body, or an employee
 41 of the school corporation after the action is taken, if the action
 42 could have been approved in advance, and in connection with the

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1 action to pay the expense or compensation permitted under
2 IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and
3 IC 20-48-1 or any other law.

4 (20) To exercise any other power and make any expenditure in
5 carrying out the governing body's general powers and purposes
6 provided in this chapter or in carrying out the powers delineated
7 in this section which is reasonable from a business or educational
8 standpoint in carrying out school purposes of the school
9 corporation, including the acquisition of property or the
10 employment or contracting for services, even though the power or
11 expenditure is not specifically set out in this chapter. The specific
12 powers set out in this section do not limit the general grant of
13 powers provided in this chapter except where a limitation is set
14 out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12,
15 and IC 20-48-1 by specific language or by reference to other law.

16 SECTION 6. IC 20-28-8-6, AS ADDED BY P.L.1-2005, SECTION
17 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
18 2013]: Sec. 6. A contract entered into by a governing body and its
19 superintendent is subject to the following conditions:

20 (1) **If the superintendent holds a license under IC 20-28-5**, the
21 basic contract must be in the form of the regular teacher's
22 contract.

23 (2) The contract must be for a term of at least thirty-six (36)
24 months.

25 (3) The contract may be altered or rescinded for a new one at any
26 time by mutual consent of the governing body and the
27 superintendent. The consent of both parties must be in writing and
28 must be expressed in a manner consistent with this section and
29 sections 7 through 8 of this chapter.

30 (4) **If the superintendent holds a license under IC 20-28-5**, the
31 rights of a superintendent as a teacher under any other law are not
32 affected by the contract.

33 SECTION 7. IC 20-28-8-7, AS ADDED BY P.L.1-2005, SECTION
34 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
35 2013]: Sec. 7. A superintendent's contract terminates on the following
36 dates and under the following conditions only:

37 (1) On any date, if the governing body and the superintendent
38 mutually consent.

39 (2) Before the expiration date set forth in the contract, if the
40 governing body terminates the contract:

41 (A) for cause under a statute that sets forth causes for
42 dismissal of teachers, **if the superintendent is licensed under**

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- IC 20-28-5; or**
- (B) for:**
 - (i) immorality;**
 - (ii) misconduct in office;**
 - (iii) incompetency; or**
 - (iv) willful neglect of duty;**

if the superintendent is not licensed under IC 20-28-5.

However, the governing body must give the superintendent proper notice and, if the superintendent requests a hearing at least ten (10) days before the termination, must grant the superintendent a hearing at an official meeting of the governing body.

(3) On the expiration date set forth in the contract, if the governing body not later than January 1 of the year in which the contract expires gives notice to the superintendent in writing, delivered in person or by registered mail.

(4) On the expiration date set forth in the contract, if the superintendent not later than January 1 of the year in which the contract expires gives proper notice in writing to the governing body.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1357, 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.

BEHNING, Chair

Committee Vote: yeas 9, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1357 be amended to read as follows:

Page 9, delete lines 16 through 29.

Page 10, delete lines 34 through 42.

Delete page 11.

Renumber all SECTIONS consecutively.

(Reference is to HB 1357 as printed February 1, 2013.)

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