



January 27, 2015

HOUSE BILL No. 1335

DIGEST OF HB 1335 (Updated January 27, 2015 1:16 pm - DI 87)

Citations Affected: IC 5-8.

Synopsis: Removal of public officers. Specifies that a "public officer", for purposes of the law concerning removal of public officers, includes an individual who holds an elected office or an appointed office of the state or a political subdivision. (Current law includes state, county, township, city, or town officials.)

Effective: July 1, 2015.

Stemler

January 13, 2015, read first time and referred to Committee on Government and Regulatory Reform.
January 27, 2015, reported — Do Pass.

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January 27, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1335

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 5-8-1-38, AS ADDED BY P.L.37-2008, SECTION
2 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2015]: Sec. 38. (a) The following definitions apply throughout this
4 section:
5 (1) "Felony" has the meaning set forth in IC 3-8-1-5.
6 (2) "Public officer" means ~~any person~~, **either of the following:**
7 **(A) An individual who holds an elected or office (as defined**
8 **in IC 3-5-2-17), other than a federal office.**
9 **(B) An individual who holds an appointed who holds any**
10 **office of the state county, township, city, or town office. or a**
11 **political subdivision (as defined in IC 36-1-2-13).**
12 (b) Any public officer convicted of a felony during the public
13 officer's term of office shall:
14 (1) be removed from office by operation of law when:
15 (A) in a jury trial, a jury publicly announces a verdict against

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- 1 the person for a felony;
- 2 (B) in a bench trial, the court publicly announces a verdict
- 3 against the person for a felony; or
- 4 (C) in a guilty plea hearing, the person pleads guilty or nolo
- 5 contendere to a felony; and
- 6 (2) not receive any salary or remuneration from the time the
- 7 public officer is removed from office under subdivision (1).
- 8 (c) The subsequent reduction of a felony to a Class A misdemeanor
- 9 under IC 35-50-2-7 or IC 35-38-1-1.5 after the:
- 10 (1) jury has announced its verdict against the person for a felony;
- 11 (2) court has announced its verdict against the person for a felony;
- 12 or
- 13 (3) person has pleaded guilty or nolo contendere to a felony;
- 14 does not affect the operation of subsection (b).
- 15 (d) If the conviction is:
- 16 (1) reversed;
- 17 (2) vacated;
- 18 (3) set aside;
- 19 (4) for a felony other than a felony arising out of an action taken
- 20 in the public officer's official capacity, reduced to a Class A
- 21 misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or
- 22 (5) not entered because the trial court did not accept the guilty
- 23 plea;
- 24 and the public officer's term has not expired, the public officer shall be
- 25 reinstated in office and receive any salary or other remuneration that
- 26 the public officer would have received had the public officer not been
- 27 removed from office.
- 28 (e) If the conviction is reversed, vacated, or set aside and the public
- 29 officer's term has expired, the public officer shall receive any salary or
- 30 other remuneration that the public officer would have received had the
- 31 public officer not been removed from office.
- 32 (f) A vacancy in a public office caused by the removal of a public
- 33 officer under this section shall be filled as provided by law. If a
- 34 convicted public officer is reinstated, the person filling the office
- 35 during the appeal shall cease to hold the office.
- 36 (g) This subsection applies whenever:
- 37 (1) a public officer is removed from office by operation of law
- 38 under subsection (b); and
- 39 (2) a vacancy occurs in a state, county, township, city, or town
- 40 office as the result of the removal from office.
- 41 The court must file a certified copy of the sentencing order with the
- 42 person who is entitled under IC 5-8-6 to receive notice of the death of



1 an individual holding the office. The person receiving a copy of the
2 sentencing order must give notice of the vacancy in the same manner
3 as if the person had received a notice under IC 5-8-6. The person who
4 is required or permitted to fill the vacancy must comply with IC 3-13.

5 (h) This subsection applies if a public officer is reinstated in office
6 under subsection (d). The court must file a certified copy of the order
7 reversing, vacating, reducing, or setting aside the conviction with the
8 person who is entitled under IC 5-8-6 to receive notice of the death of
9 an individual holding the office. The person receiving a copy of the
10 order must give notice of the reinstatement in the same manner as
11 notice of a vacancy would be given under IC 5-8-6. The person
12 receiving a copy of the order must also give notice to the person who
13 was selected to fill the vacancy before the reinstatement occurred.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1335, 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.

(Reference is to HB 1335 as introduced.)

MAHAN

Committee Vote: Yeas 12, Nays 0

