

SENATE BILL No. 194

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3.1; IC 34-30-2-14.5; IC 36-4-5-3.

Synopsis: Records requests by city legislative body. Requires a city agency (agency) to provide a public record to a member of the city legislative body (member) that requests the record for a legislative purpose either: (1) on the member's own initiative; or (2) at the direction of the city legislative body. Requires the agency to: (1) provide the record without redaction of any confidential information in the record; and (2) designate in writing the information that is confidential information. Allows an agency, at the agency's discretion to: (1) require a member to make a written public records request that states the purpose of the member's request as legislative business; or (2) disclose a record to a member without requiring the member to make a written public records request. Provides that an action to compel agency disclosure or to assess penalties against an agency under the public records act for failure to disclose a record is not available to a member who does not submit a written public records request. Provides that a person who is a member, employee, or staff member of the city legislative body, or an employee or officer of a contractor or subcontractor of an agency, who knowingly or intentionally discloses confidential information to a person other than another member, employee, or staff member of the city legislative body, or an employee or officer of a contractor or subcontractor of an agency, commits a Class A infraction. Provides immunity from criminal and civil liability for unintentional and unknowing disclosure of confidential information in violation of the law and for disclosing information in reliance on a public access counselor opinion. Requires the city executive to provide any information regarding city affairs
(Continued next page)

Effective: July 1, 2015.

Yoder

January 6, 2015, read first time and referred to Committee on Local Government.



Digest Continued

upon the request of any member of the legislative body. (Current law requires the city executive to provide this information only upon the request of the city legislative body.) Makes a technical correction.



Introduced

First Regular Session 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.

SENATE BILL No. 194

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 5-14-3.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]:
4 **Chapter 3.1. Request for Records by a City Legislative Body**
5 **Member**
6 **Sec. 1. This chapter applies only to a request for disclosure of a**
7 **public record that is made by a city legislative body member:**
8 (1) **to an agency; and**
9 (2) **in the member's official capacity:**
10 (A) **on the member's own initiative; or**
11 (B) **at the direction of the city legislative body.**
12 **Sec. 2. This chapter does not apply to a request for any of the**
13 **following public records:**
14 (1) **A record described under IC 5-14-3-4(a)(3) through**
15 **IC 5-14-3-4(a)(12).**

2015

IN 194—LS 6203/DI 87



1 (2) A record described under IC 5-14-3-4(b)(1).

2 (3) A record described under IC 5-14-3-4(b)(2).

3 (4) A record described under IC 5-14-3-4(b)(19).

4 (5) A record described under IC 5-14-3-4(b)(25).

5 (6) A judicial public record sealed under IC 5-14-3-5.5.

6 Sec. 3. (a) Except to the extent that this chapter provides
7 otherwise, IC 5-14-3 applies to a public record that is subject to
8 this chapter.

9 (b) This chapter shall be controlling in the event there exists any
10 conflict between this chapter and IC 5-14-3.

11 Sec. 4. The definitions in IC 5-14-3 apply throughout this
12 chapter.

13 Sec. 5. As used in this chapter, "agency" means any board,
14 commission, department, division, bureau, committee, office,
15 instrumentality, or authority of a city. The term includes the office
16 of the city executive. The term does not include any of the
17 following:

18 (1) A court, office, or entity of the judicial branch of city
19 government.

20 (2) A school corporation, library district, local housing
21 authority, fire protection district, public transportation
22 corporation, local building authority, local hospital authority
23 or corporation, local airport authority, special service district,
24 or other separate local governmental entity that may sue and
25 be sued.

26 Sec. 6. As used in this chapter, "confidential information"
27 means information that an agency:

28 (1) is required by state statute to withhold from disclosure to
29 the public; or

30 (2) has the discretionary authority under state statute to
31 withhold from disclosure to the public.

32 Sec. 7. As used in this chapter, "legislative body" means the:

33 (1) city-county council, for a consolidated city; or

34 (2) common council, for a city other than a consolidated city.

35 Sec. 8. As used in this chapter, "member" means a member of
36 a city legislative body.

37 Sec. 9. (a) If a member requests a public record from an agency,
38 the agency shall do one (1) of the following, at the agency's
39 discretion:

40 (1) Require the member to do the following:

41 (A) Make a written public records request under
42 IC 5-14-3-3.



- 1 **(B) Write on the public record request form that the**
 2 **member's purpose for requesting the record is legislative**
 3 **business. The member may not be required to provide any**
 4 **other information regarding the purpose of the records**
 5 **request.**
- 6 **(2) Disclose the public record to the member without**
 7 **requiring the member to meet the requirements of subdivision**
 8 **(1). If an agency proceeds under this subdivision, IC 5-14-3-9**
 9 **and IC 5-14-3-9.5 do not apply to the request.**
- 10 **(b) The agency shall provide a copy of the requested public**
 11 **record to the member. If the requested public record contains**
 12 **confidential information, the agency shall:**
- 13 **(1) provide a copy of the public record without withholding or**
 14 **redacting any of the confidential information; and**
 15 **(2) designate in writing the information that is confidential.**
- 16 **(c) IC 5-14-3-10 does not apply to the disclosure of confidential**
 17 **information under this chapter.**
- 18 **Sec. 10. If the agency or the member obtains a formal or**
 19 **informal advisory opinion from the public access counselor, all**
 20 **confidential information in the public record provided to the public**
 21 **access counselor must be redacted.**
- 22 **Sec. 11. (a) This section applies to only the following persons:**
- 23 **(1) A member.**
- 24 **(2) An employee or person serving on the staff of a city**
 25 **legislative body.**
- 26 **(3) An employee or officer of:**
- 27 **(A) an agency; or**
 28 **(B) a contractor or subcontractor of an agency.**
- 29 **(b) A person described in subsection (a) who knowingly or**
 30 **intentionally discloses information classified as confidential by**
 31 **state statute to a person other than a person described in**
 32 **subsection (a), including information declared confidential:**
- 33 **(1) under IC 5-14-3-4(a); or**
 34 **(2) under IC 5-14-3-4(b), by the agency having control of the**
 35 **information;**
- 36 **commits a Class A infraction.**
- 37 **(c) An employee of a city legislative body or of an agency may**
 38 **be disciplined in accordance with the personnel policies of the**
 39 **employee's employer if the employee intentionally, knowingly, or**
 40 **recklessly discloses or fails to protect information classified as**
 41 **confidential by state statute.**
- 42 **(d) A person described in subsection (a) who:**



1 (1) unintentionally or unknowingly discloses information
 2 classified as confidential by state statute to a person other
 3 than a person described in subsection (a); or

4 (2) discloses confidential information in reliance on an
 5 advisory opinion by the public access counselor;
 6 is immune from civil or criminal liability for the disclosure.

7 (e) This section does not apply to any provision incorporated
 8 into state law from a federal statute.

9 **Sec. 12. A person described in section 11(a) of this chapter who**
 10 **discloses information in compliance with this chapter maintains the**
 11 **confidentiality of the record for purposes of IC 5-14-3-6.5.**

12 **Sec. 13. This chapter does not prohibit a member from making**
 13 **a request in accordance with IC 5-14-3 at any time as a private**
 14 **citizen and not in the person's official capacity as a member.**

15 SECTION 2. IC 34-30-2-14.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2015]: **Sec. 14.5. IC 5-14-3.1-11 (Concerning**
 18 **a person who discloses certain confidential information).**

19 SECTION 3. IC 36-4-5-3 IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2015]: Sec. 3. The executive shall:

- 21 (1) enforce the ordinances of the city and the statutes of the state;
 22 (2) provide a statement of the finances and general condition of
 23 the city to the city legislative body at least once a year;
 24 (3) provide any information regarding city affairs that the
 25 legislative body or any member of the legislative body requests;
 26 (4) recommend, in writing, to the legislative body actions that the
 27 executive considers proper;
 28 (5) call special meetings of the legislative body when necessary;
 29 (6) supervise subordinate officers;
 30 (7) insure efficient government of the city;
 31 (8) fill vacancies in city offices when required by IC 3-13-8;
 32 (9) sign all bonds, deeds, and contracts of the city and all licenses
 33 issued by the city; and
 34 (10) approve or veto ordinances, orders, and resolutions of the
 35 legislative body under ~~IC 36-4-6-15~~: **IC 36-4-6-16.**

