

SENATE BILL No. 189

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-13-2-7; IC 36-2.

Synopsis: Election of members of the county executive. Provides that each member of the county executive is elected only by the voters of the respective county commissioner districts instead of by all the voters of the county if the county executive adopts an ordinance providing for this method of election. Provides that if 20% of the total number of voters of the county who voted in the most recent election for secretary of state in the county petition the county executive to adopt such an ordinance, the county executive is required to adopt the ordinance. Provides that if the county executive adopts such an ordinance, a public question is placed on the ballot at the next general election of the county asking the voters of the county whether each of the members of the executive should be elected only by the voters of their respective commissioner districts instead of by all the voters of the county. Makes technical changes in the statutes relating to election of members of the county executive.

Effective: July 1, 2015.

Arnold J

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



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. 189

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

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

- 1 SECTION 1. IC 14-13-2-7, AS AMENDED BY P.L.160-2012,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) The commission has:
4 (1) before July 1, 2012, five (5) members appointed by the
5 governor; and
6 (2) after June 30, 2012, nine (9) members appointed by the
7 governor.
8 (b) The following requirements apply to the governor's
9 appointments under subsection (a)(1):
10 (1) One (1) member must be a representative of the department of
11 natural resources. The member may not be an employee or elected
12 official of a city, town, or county governmental unit.
13 (2) The remaining four (4) members must meet the following
14 requirements:
15 (A) Four (4) members must reside in a:
16 (i) city;



- 1 (ii) town; or
 2 (iii) township (if the member resides in an unincorporated
 3 area of the county);
 4 that borders the Little Calumet River.
 5 (B) At least three (3) of the members must have a background
 6 in:
 7 (i) construction;
 8 (ii) project management; or
 9 (iii) flood control;
 10 or a similar professional background.
 11 (C) A member may not be an employee or elected official of
 12 a city, town, or county governmental unit.
 13 (c) The following apply to the membership of the commission after
 14 June 30, 2012:
 15 (1) Before August 1, 2012, the governor shall appoint four (4)
 16 additional members to the commission for four (4) year terms as
 17 follows:
 18 (A) One (1) member nominated by the mayor of a city having
 19 a population of more than eighty thousand five hundred
 20 (80,500) but less than one hundred thousand (100,000).
 21 (B) One (1) member nominated by the mayor of a city having
 22 a population of more than eighty thousand (80,000) but less
 23 than eighty thousand four hundred (80,400).
 24 (C) Two (2) members nominated by the board of county
 25 commissioners of Lake County.
 26 (2) Notwithstanding section 8 of this chapter, the term of the
 27 member described in subsection (b)(1) expires January 7, 2013.
 28 The governor shall appoint one (1) member nominated by the
 29 department of natural resources for a four (4) year term beginning
 30 January 7, 2013.
 31 (3) Notwithstanding section 8 of this chapter, the terms of the
 32 members described in subsection (b)(2) expire January 1, 2014.
 33 The governor shall appoint for four (4) year terms beginning
 34 January 1, 2014, four (4) members, each of whom must have been
 35 nominated by the executive of a municipality located in the
 36 watershed other than a city described in subdivision (1).
 37 (4) A member appointed to succeed a member appointed under
 38 subdivision (1) or (2) must be nominated by the nominating
 39 authority that nominated the member's predecessor, and a member
 40 appointed to succeed a member appointed under subdivision (3)
 41 must be nominated by the executive of a municipality located in
 42 the watershed other than a city described in subdivision (1).



1 (d) The following apply to a member appointed under subsection (c)
 2 and to any member appointed to succeed a member appointed under
 3 subsection (c):

4 (1) After July 31, 2012, not more than five (5) members of the
 5 commission may belong to the same political party.

6 (2) Each member must have a background in:

7 (A) construction;

8 (B) project management;

9 (C) flood control; or

10 (D) a similar professional background.

11 (3) A member may not be an employee or elected official of a
 12 city, town, or county governmental unit.

13 (4) The members:

14 (A) appointed under subsection (c)(3); or

15 (B) appointed to succeed members appointed under subsection
 16 (c)(3);

17 must be from different municipalities.

18 (5) Neither the two (2) members appointed under subsection
 19 (c)(1)(C) nor any two (2) members appointed to succeed them
 20 may be from the same district created under ~~IC 36-2-2-4(b)~~:

21 **IC 36-2-2-4.1.**

22 SECTION 2. IC 36-2-2-4, AS AMENDED BY P.L.271-2013,
 23 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2015]: Sec. 4. (a) This ~~subsection~~ **section** does not apply to a
 25 county ~~having a population of:~~

26 ~~(1) more than four hundred thousand (400,000) but less than~~
 27 ~~seven hundred thousand (700,000); or~~

28 ~~(2) more than two hundred fifty thousand (250,000) but less than~~
 29 ~~two hundred seventy thousand (270,000):~~

30 **to which section 4.1 or 4.2 of this chapter applies.**

31 (b) The executive shall divide the county into three (3) districts that
 32 are composed of contiguous territory and are reasonably compact. The
 33 district boundaries drawn by the executive ~~must~~ **may** not cross precinct
 34 boundary lines and ~~must~~ **may** divide townships only when a division
 35 is clearly necessary to accomplish redistricting under this section. If
 36 necessary, the county auditor shall call a special meeting of the
 37 executive to establish or revise districts.

38 (b) This subsection applies to a county having a population of more
 39 than four hundred thousand (400,000) but less than seven hundred
 40 thousand (700,000). A county redistricting commission shall divide the
 41 county into three (3) single-member districts that comply with
 42 subsection (d). The commission is composed of:



- 1 (1) the members of the Indiana election commission;
 2 (2) two (2) members of the senate selected by the president pro
 3 tempore; one (1) from each political party; and
 4 (3) two (2) members of the house of representatives selected by
 5 the speaker; one (1) from each political party.

6 The legislative members of the commission have no vote and may act
 7 only in an advisory capacity. A majority vote of the voting members is
 8 required for the commission to take action. The commission may meet
 9 as frequently as necessary to perform its duty under this subsection.
 10 The commission's members serve without additional compensation
 11 above that provided for them as members of the Indiana election
 12 commission, the senate, or the house of representatives.

13 (c) This subsection applies to a county having a population of more
 14 than two hundred fifty thousand (250,000) but less than two hundred
 15 seventy thousand (270,000). The executive shall divide the county into
 16 three (3) single-member districts that comply with subsection (d).

17 (d) Single-member districts established under subsection (b) or (c)
 18 must:

- 19 (1) be compact; subject only to natural boundary lines (such as
 20 railroads; major highways; rivers; creeks; parks; and major
 21 industrial complexes);
 22 (2) contain, as nearly as is possible, equal population; and
 23 (3) not cross precinct lines.

24 (e) Except as provided by subsection (g); a division under
 25 subsection (a); (b); or (c) shall be made:

- 26 (1) during the first year after a year in which a federal decennial
 27 census is conducted; and
 28 (2) when the county adopts an order declaring a county boundary
 29 to be changed under IC 36-2-1-2.

30 (f) A division under subsection (a); (b); or (c) may be made in any
 31 odd-numbered year not described in subsection (e).

32 (g) This subsection applies during the first year after a year in which
 33 a federal decennial census is conducted. If the county executive or
 34 county redistricting commission determines that a division under
 35 subsection (e) is not required, the county executive or county
 36 redistricting commission shall adopt an ordinance recertifying that the
 37 districts as drawn comply with this section.

38 (h) Each time there is a division under subsection (e) or (f) or a
 39 recertification under subsection (g); the county executive or county
 40 redistricting commission shall file with the circuit court clerk of the
 41 county, not later than thirty (30) days after the division or
 42 recertification occurs; a map of the district boundaries:



1 (1) adopted under subsection (e) or (f); or

2 (2) recertified under subsection (g):

3 (i) The limitations set forth in this section are part of the ordinance;
4 but do not have to be specifically set forth in the ordinance. The
5 ordinance must be construed, if possible, to comply with this chapter.
6 If a provision of the ordinance or an application of the ordinance
7 violates this chapter, the invalidity does not affect the other provisions
8 or applications of the ordinance that can be given effect without the
9 invalid provision or application. The provisions of the ordinance are
10 severable.

11 (j) If a conflict exists between:

12 (1) a map showing the boundaries of a district; and

13 (2) a description of the boundaries of that district set forth in the
14 ordinance;

15 the district boundaries are the description of the boundaries set forth in
16 the ordinance, not the boundaries shown on the map; to the extent there
17 is a conflict between the description and the map.

18 SECTION 3. IC 36-2-2-4.1 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2015]: **Sec. 4.1. (a) This section applies only to a county having
21 a population of more than four hundred thousand (400,000) but
22 less than seven hundred thousand (700,000).**

23 **(b) A county redistricting commission shall divide the county
24 into three (3) single member districts that comply with section 4.4
25 of this chapter. The commission is composed of the following:**

26 **(1) The members of the Indiana election commission.**

27 **(2) Two (2) members of the senate selected by the president
28 pro tempore, one (1) from each political party.**

29 **(3) Two (2) members of the house of representatives selected
30 by the speaker, one (1) from each political party.**

31 **(c) The legislative members of the commission have no vote and
32 may act only in an advisory capacity.**

33 **(d) A majority vote of the voting members is required for the
34 commission to take action.**

35 **(e) The commission may meet as frequently as necessary to
36 perform its duty under this subsection.**

37 **(f) The commission's members serve without additional
38 compensation more than that provided for them as members of the
39 Indiana election commission, the senate, or the house of
40 representatives.**

41 SECTION 4. IC 36-2-2-4.2 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



- 1, 2015]: **Sec. 4.2. (a) This section applies only to the following:**
- 2 **(1) A county having a population of more than two hundred**
3 **fifty thousand (250,000) but less than two hundred seventy**
4 **thousand (270,000).**
- 5 **(2) A county that elects to be governed by this section under**
6 **section 4.3 of this chapter.**
- 7 **(b) The executive shall divide the county into three (3) single**
8 **member districts that comply with section 4.4 of this chapter.**
- 9 SECTION 5. IC 36-2-2-4.3 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2015]: **Sec. 4.3. (a) This section applies only to a county to which**
12 **section 4 of this chapter applies. This section does not apply to a**
13 **county to which section 4.1 or 4.2 of this chapter applies.**
- 14 **(b) The executive may adopt an ordinance providing that section**
15 **4.2 of this chapter applies to the county instead of section 4 of this**
16 **chapter.**
- 17 **(c) The voters of the county may circulate a petition asking the**
18 **county executive to adopt an ordinance under this section. A**
19 **petition under this subsection must be filed with the county voter**
20 **registration office of the county. The county voter registration**
21 **office shall determine whether each individual who has signed the**
22 **petition is a voter of the county. Not later than ten (10) days after**
23 **the petition is filed under this subsection, the county voter**
24 **registration office shall certify to the executive the filing of the**
25 **petition and the number of voters of the county who have signed**
26 **the petition. If the number of voters of the county equal to at least**
27 **twenty percent (20%) of the total vote for secretary of state in the**
28 **county at the most recent election for secretary of state sign a**
29 **petition asking the executive to adopt an ordinance under this**
30 **section, the executive shall adopt the ordinance.**
- 31 **(d) If the executive adopts an ordinance under this section, the**
32 **executive shall certify the adoption of the ordinance to the county**
33 **election board.**
- 34 **(e) If the executive certifies adoption of an ordinance under this**
35 **section to the county election board, the county election board shall**
36 **place the following public question on the ballot at the next general**
37 **election held in the county:**
- 38 **"Shall the county commissioners of _____ (insert the**
39 **name of the county) County be elected so that only the voters of a**
40 **county commissioner district elect a commissioner from that**
41 **district instead of each county commissioner being elected by all**
42 **the voters of the county?"**



1 (f) IC 3, except where inconsistent with this section, applies to
 2 a public question placed on the ballot under this section. A public
 3 question under this section must be certified in accordance with
 4 IC 3-10-9-3 and shall be placed on the ballot in accordance with
 5 IC 3-10-9.

6 (g) If a majority of the voters of a county who vote on a public
 7 question placed on the ballot under this section vote in favor of the
 8 public question, the following apply:

9 (1) Section 4.2 of this chapter and not section 4 of this chapter
 10 applies to the executive.

11 (2) The members of the executive shall be elected only by the
 12 voters of their respective commissioner districts, beginning
 13 with the next general election for members of the executive.

14 SECTION 6. IC 36-2-2-4.4 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2015]: Sec. 4.4. (a) Single member districts established under
 17 section 4.1 or 4.2 of this chapter must:

18 (1) be compact, subject only to natural boundary lines (such
 19 as railroads, major highways, rivers, creeks, parks, and major
 20 industrial complexes);

21 (2) contain, as nearly as is possible, equal population; and

22 (3) not cross precinct lines.

23 (b) Except as provided by subsection (d), a division under
 24 section 4, 4.1, or 4.2 of this chapter shall be made:

25 (1) during the first year after a year in which a federal
 26 decennial census is conducted; and

27 (2) when the county adopts an order declaring a county
 28 boundary to be changed under IC 36-2-1-2.

29 (c) A division under section 4, 4.1, or 4.2 of this chapter may be
 30 made in any odd numbered year not described in subsection (b).

31 (d) This subsection applies during the first year after a year in
 32 which a federal decennial census is conducted. If the county
 33 executive or county redistricting commission determines that a
 34 division under subsection (b) is not required, the county executive
 35 or county redistricting commission shall adopt an ordinance
 36 recertifying that the districts as drawn comply with this section.

37 (e) Each time there is a division under subsection (b) or (c) or a
 38 recertification under subsection (d), the county executive or county
 39 redistricting commission shall file with the circuit court clerk of the
 40 county, not later than thirty (30) days after the division or
 41 recertification occurs, a map of the district boundaries:

42 (1) adopted under subsection (b) or (c); or



1 **(2) recertified under subsection (d).**

2 **(f) The limitations set forth in this section are part of the**
 3 **ordinance, but do not have to be specifically set forth in the**
 4 **ordinance. The ordinance must be construed, if possible, to comply**
 5 **with this chapter. If a provision of the ordinance or an application**
 6 **of the ordinance violates this chapter, the invalidity does not affect**
 7 **the other provisions or applications of the ordinance that can be**
 8 **given effect without the invalid provision or application. The**
 9 **provisions of the ordinance are severable.**

10 **(g) If a conflict exists between:**

11 **(1) a map showing the boundaries of a district; and**

12 **(2) a description of the boundaries of that district set forth in**
 13 **the ordinance;**

14 **the district boundaries are the description of the boundaries set**
 15 **forth in the ordinance, not the boundaries shown on the map, to the**
 16 **extent there is a conflict between the description and the map.**

17 SECTION 7. IC 36-2-2-4.5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.5. (a) If any territory
 19 in a county is not included in one (1) of the districts established under
 20 ~~section 4~~ of this chapter, the territory is included in the district that:

21 (1) is contiguous to that territory; and

22 (2) contains the least population of all districts contiguous to that
 23 territory.

24 (b) If any territory in any county is included in more than one (1) of
 25 the districts established under ~~section 4~~ of this chapter, the territory is
 26 included in the district that:

27 (1) is one (1) of the districts in which the territory is described in
 28 the ordinance adopted under ~~section 4~~ of this chapter;

29 (2) is contiguous to that territory; and

30 (3) contains the least population of all districts contiguous to that
 31 territory.

32 SECTION 8. IC 36-2-2-4.7 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.7. (a) Whenever the
 34 executive divides the county into districts under ~~section 4~~ of this
 35 chapter, the executive shall adopt an ordinance.

36 (b) The executive shall file a copy of an ordinance adopted under
 37 subsection (a) with the circuit court clerk.

38 SECTION 9. IC 36-2-2-5, AS AMENDED BY P.L.119-2012,
 39 SECTION 180, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) To be eligible for election to
 41 the executive, a person must meet the qualifications prescribed by
 42 IC 3-8-1-21.



1 (b) A member of the executive must reside within:

2 (1) the county as provided in Article 6, Section 6 of the
3 Constitution of the State of Indiana; and

4 (2) the district from which the member was elected.

5 (c) If the person does not remain a resident of the county and district
6 after taking office, the person forfeits the office. The county fiscal body
7 shall declare the office vacant whenever a member of the executive
8 forfeits office under this subsection.

9 (d) In a county ~~having a population of:~~

10 ~~(1) more than four hundred thousand (400,000) but less than~~
11 ~~seven hundred thousand (700,000); or~~

12 ~~(2) more than two hundred fifty thousand (250,000) but less than~~
13 ~~two hundred seventy thousand (270,000);~~

14 **to which section 4.1 or 4.2 of this chapter applies**, one (1) member
15 of the executive shall be elected by the voters of each of the three (3)
16 single-member districts established under section ~~4(b)~~ **4.1** or ~~4(c)~~ **4.2**
17 of this chapter. In other counties, all three (3) members of the executive
18 shall be elected by the voters of the whole county.

19 SECTION 10. IC 36-2-3-4, AS AMENDED BY P.L.77-2014,
20 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2015]: Sec. 4. (a) This subsection does not apply to a county
22 having a population of:

23 (1) more than four hundred thousand (400,000) but less than
24 seven hundred thousand (700,000); or

25 (2) more than two hundred fifty thousand (250,000) but less than
26 two hundred seventy thousand (270,000).

27 Except as provided in section 4.1 of this chapter, the county executive
28 shall, by ordinance, divide the county into four (4) contiguous,
29 single-member districts that comply with subsection (d). If necessary,
30 the county auditor shall call a special meeting of the executive to
31 establish or revise districts. One (1) member of the fiscal body shall be
32 elected by the voters of each of the four (4) districts. Three (3) at-large
33 members of the fiscal body shall be elected by the voters of the whole
34 county.

35 (b) This subsection applies to a county having a population of more
36 than four hundred thousand (400,000) but less than seven hundred
37 thousand (700,000). The county redistricting commission established
38 under IC 36-2-2-4 shall divide the county into seven (7) single-member
39 districts that comply with subsection (d). One (1) member of the fiscal
40 body shall be elected by the voters of each of these seven (7)
41 single-member districts.

42 (c) This subsection applies to a county having a population of more



1 than two hundred fifty thousand (250,000) but less than two hundred
 2 seventy thousand (270,000). The fiscal body shall divide the county
 3 into nine (9) single-member districts that comply with subsection (d).
 4 Three (3) of these districts must be contained within each of the three
 5 (3) districts established under ~~IC 36-2-2-4(e)~~. **IC 36-2-2-4.2**. One (1)
 6 member of the fiscal body shall be elected by the voters of each of
 7 these nine (9) single-member districts.

8 (d) Single-member districts established under subsection (a), (b), or
 9 (c) must:

10 (1) be compact, subject only to natural boundary lines (such as
 11 railroads, major highways, rivers, creeks, parks, and major
 12 industrial complexes);

13 (2) not cross precinct boundary lines;

14 (3) contain, as nearly as possible, equal population; and

15 (4) include whole townships, except when a division is clearly
 16 necessary to accomplish redistricting under this section.

17 (e) Except as provided by subsection (g), a division under
 18 subsection (a), (b), or (c) shall be made:

19 (1) during the first year after a year in which a federal decennial
 20 census is conducted; and

21 (2) when the county executive adopts an order declaring a county
 22 boundary to be changed under IC 36-2-1-2.

23 (f) A division under subsection (a), (b), or (c) may be made in any
 24 odd-numbered year not described in subsection (e). In a county in
 25 which a public question is approved under IC 36-2-2.7-5, a division
 26 under subsection (a) shall be made by the county council during the
 27 year before county council members will be elected under
 28 IC 36-2-2.7-6(8).

29 (g) This subsection applies during the first year after a year in which
 30 a federal decennial census is conducted. If the county executive, county
 31 redistricting commission, or county fiscal body determines that a
 32 division under subsection (e) is not required, the county executive,
 33 county redistricting commission, or county fiscal body shall adopt an
 34 ordinance recertifying that the districts as drawn comply with this
 35 section.

36 (h) Each time there is a division under subsection (e) or (f) or a
 37 recertification under subsection (g), the county executive, county
 38 redistricting commission, or county fiscal body shall file with the
 39 circuit court clerk of the county, not later than thirty (30) days after the
 40 division or recertification occurs, a map of the district boundaries:

41 (1) adopted under subsection (e) or (f); or

42 (2) recertified under subsection (g).



- 1 (i) The limitations set forth in this section are part of the ordinance,
2 but do not have to be specifically set forth in the ordinance. The
3 ordinance must be construed, if possible, to comply with this chapter.
4 If a provision of the ordinance or an application of the ordinance
5 violates this chapter, the invalidity does not affect the other provisions
6 or applications of the ordinance that can be given effect without the
7 invalid provision or application. The provisions of the ordinance are
8 severable.
- 9 (j) If a conflict exists between:
10 (1) a map showing the boundaries of a district; and
11 (2) a description of the boundaries of that district set forth in the
12 ordinance;
13 the district boundaries are the description of the boundaries set forth in
14 the ordinance, not the boundaries shown on the map, to the extent there
15 is a conflict between the description and the map.

