



Reprinted
February 19, 2019

SENATE BILL No. 270

DIGEST OF SB 270 (Updated February 18, 2019 2:51 pm - DI 87)

Citations Affected: IC 36-1.

Synopsis: Recusal of local government officials. Provides that county, city, town, and township elected officials (local officials) may not, outside of a public meeting: (1) participate in a discussion or a vote; or (2) persuade the vote of another elected official of the unit; if the local official has a financial interest in the outcome of a decision before the body the local official serves. Provides that an elected official has a financial interest if the decision involves: (1) the transfer or authorized use of property owned or controlled by the elected official or a relative of the elected official; or (2) the procurement of services by the unit from the elected official, the elected official's employer or prospective employer, the elected official's relative, or an entity the elected official owns or controls. Provides that if disqualification of a body's members prevent a vote from being taken or cause a tie vote, the decision will be made or the tie broken by the following: (1) The mayor, in the case of a city legislative body. (2) The clerk-treasurer, in the case of a town legislative body. (3) The township trustee, in the case of a township legislative body. (4) The county fiscal body, in the case of a county executive body. (5) The county executive, in the case of a county fiscal body.

Effective: July 1, 2019.

**Head, Brown L, Randolph Lonnie M,
Bohacek**

January 7, 2019, read first time and referred to Committee on Local Government.
January 28, 2019, reported favorably — Do Pass.
February 18, 2019, read second time, amended, ordered engrossed.

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Reprinted
February 19, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 270

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 36-1-21-5, AS AMENDED BY P.L.13-2013,
2 SECTION 150, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) A unit may enter into a
4 contract or renew a contract for the procurement of goods and services
5 or a contract for public works with:
6 (1) an individual who is a relative of an elected official; or
7 (2) a business entity that is wholly or partially owned by a relative
8 of an elected official;
9 only if the requirements of this section are satisfied and the elected
10 official does not violate IC 35-44.1-1-4.
11 (b) A unit may enter into a contract or renew a contract with an
12 individual or business entity described in subsection (a) if **all of the**
13 **following are satisfied:**
14 (1) The elected official files with the unit a full disclosure, which
15 must:
16 (A) be in writing;
17 (B) describe the contract or purchase to be made by the unit;

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- 1 (C) describe the relationship that the elected official has to the
 2 individual or business entity that contracts or purchases;
 3 (D) be affirmed under penalty of perjury;
 4 (E) be submitted to the legislative body of the unit and be
 5 accepted by the legislative body in a public meeting of the unit
 6 prior to final action on the contract or purchase; and
 7 (F) be filed, not later than fifteen (15) days after final action on
 8 the contract or purchase, with:
 9 (i) the state board of accounts; and
 10 (ii) the clerk of the circuit court in the county where the unit
 11 takes final action on the contract or purchase.
- 12 (2) The appropriate agency of the unit:
 13 (A) makes a certified statement that the contract amount or
 14 purchase price was the lowest amount or price bid or offered;
 15 or
 16 (B) makes a certified statement of the reasons why the vendor
 17 or contractor was selected. ~~and~~
- 18 **(3) The elected official complies with IC 36-1-25, if applicable.**
 19 ~~(3)~~ **(4) the unit satisfies any other requirements under IC 5-22 or**
 20 **IC 36-1-12.**
- 21 (c) An elected official shall also comply with the disclosure
 22 provisions of IC 35-44.1-1-4, if applicable.
- 23 (d) This section does not affect the initial term of a contract in
 24 existence at the time the term of office of the elected official of the unit
 25 begins.
- 26 SECTION 2. IC 36-1-25 IS ADDED TO THE INDIANA CODE AS
 27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2019]:
- 29 **Chapter 25. Conflicts of Interest**
- 30 **Sec. 1. Except as provided in section 2 of this chapter, this**
 31 **chapter applies to all units.**
- 32 **Sec. 2. This chapter does not apply to any of the following:**
- 33 **(1) IC 36-2-2-7.**
 34 **(2) IC 36-2-2.5-12.**
 35 **(3) Any commission, board, or other entity established under**
 36 **IC 36-7-4.**
- 37 **Sec. 3. As used in this chapter, "elected official" means:**
- 38 **(1) the executive or a member of the executive body of the**
 39 **unit;**
 40 **(2) a member of the legislative body of the unit; or**
 41 **(3) a member of the fiscal body of the unit.**
- 42 **Sec. 4. As used in this chapter, "relative" means a relative (as**



1 defined in IC 36-1-21-3) of an elected official.

2 **Sec. 5. An elected official is considered to have a financial**
 3 **interest for purposes of this chapter in a purchase, sale, lease,**
 4 **contract, option, or other transaction of the unit that involves:**

5 (1) the transfer or authorized use of property owned or
 6 controlled by the elected official or a relative; or

7 (2) the procurement of services by the unit from any of the
 8 following:

9 (A) The elected official.

10 (B) The elected official's employer.

11 (C) The elected official's prospective employer, if
 12 negotiations for employment have begun.

13 (D) A relative.

14 (E) An entity that the elected official owns or controls.

15 **Sec. 6. (a) Except as provided in subsection (b), the following**
 16 **applies to an elected official who has a financial interest in the**
 17 **outcome of a decision before the body the elected official serves:**

18 (1) The elected official shall refrain entirely from
 19 participating in a discussion, decision, or vote concerning a
 20 matter that is related to the elected official's financial interest.

21 (2) The elected official may not attempt to persuade or
 22 otherwise influence another elected official's vote in the unit
 23 in which the elected official serves on a matter for which the
 24 elected official has a financial interest.

25 (b) An elected official may do the following during a regular
 26 meeting (excluding an executive session) of the body to which the
 27 official is elected and for which public notice was properly
 28 provided:

29 (1) Notwithstanding subsection (a)(1), participate in a
 30 discussion concerning a matter that is related to the elected
 31 official's financial interest.

32 (2) Notwithstanding subsection (a)(2), attempt to persuade
 33 another elected official on a matter for which the elected
 34 official has a financial interest.

35 **Sec. 7. (a) This section applies if a majority of the members of**
 36 **the:**

37 (1) legislative body of a city, town, or township; or

38 (2) the members of the county executive or the county fiscal
 39 body;

40 are required by this chapter to recuse themselves from voting on
 41 a matter.

42 (b) The matter shall be considered and resolved by:



- 1 **(1) the mayor, in the case of a city legislative body;**
- 2 **(2) the clerk-treasurer, in the case of a town legislative body;**
- 3 **(3) the township trustee, in the case of a township legislative**
- 4 **body;**
- 5 **(4) the county fiscal body, in the case of a county executive**
- 6 **body; or**
- 7 **(5) the county executive, in the case of a county fiscal body.**
- 8 **(c) If the vote of a body to which this section applies is tied and**
- 9 **the tie cannot be broken because of the recusal of an elected official**
- 10 **under this chapter, the vote to break the tie shall be cast by:**
- 11 **(1) the mayor, in the case of a city legislative body;**
- 12 **(2) the clerk-treasurer, in the case of a town legislative body;**
- 13 **(3) the township trustee, in the case of a township legislative**
- 14 **body;**
- 15 **(4) the county fiscal body, in the case of the county executive**
- 16 **body; or**
- 17 **(5) the county executive, in the case of the county fiscal body.**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 270, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 270 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 8, Nays 0

 SENATE MOTION

Madam President: I move that Senate Bill 270 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-1-21-5, AS AMENDED BY P.L.13-2013, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) A unit may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

- (1) an individual who is a relative of an elected official; or
- (2) a business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements of this section are satisfied and the elected official does not violate IC 35-44.1-1-4.

(b) A unit may enter into a contract or renew a contract with an individual or business entity described in subsection (a) if **all of the following are satisfied:**

- (1) The elected official files with the unit a full disclosure, which must:
 - (A) be in writing;
 - (B) describe the contract or purchase to be made by the unit;
 - (C) describe the relationship that the elected official has to the individual or business entity that contracts or purchases;
 - (D) be affirmed under penalty of perjury;
 - (E) be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and

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(F) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:

- (i) the state board of accounts; and
- (ii) the clerk of the circuit court in the county where the unit takes final action on the contract or purchase.

(2) The appropriate agency of the unit:

- (A) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or
- (B) makes a certified statement of the reasons why the vendor or contractor was selected. ~~and~~

(3) The elected official complies with IC 36-1-25, if applicable.

~~(3)~~ **(4) the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.**

(c) An elected official shall also comply with the disclosure provisions of IC 35-44.1-1-4, if applicable.

(d) This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins."

Page 1, delete lines 12 through 17, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "elected official" means:

- (1) the executive or a member of the executive body of the unit;**
- (2) a member of the legislative body of the unit; or**
- (3) a member of the fiscal body of the unit.**

Sec. 4. As used in this chapter, "relative" means a relative (as defined in IC 36-1-21-3) of an elected official.

Sec. 5. An elected official is considered to have a financial interest for purposes of this chapter in a purchase, sale, lease, contract, option, or other transaction of the unit that involves:

- (1) the transfer or authorized use of property owned or controlled by the elected official or a relative; or**
- (2) the procurement of services by the unit from any of the following:**
 - (A) The elected official.**
 - (B) The elected official's employer.**
 - (C) The elected official's prospective employer, if negotiations for employment have begun.**
 - (D) A relative.**
 - (E) An entity that the elected official owns or controls.**

Sec. 6. (a) Except as provided in subsection (b), the following



applies to an elected official who has a financial interest in the outcome of a decision before the body the elected official serves:

- (1) The elected official shall refrain entirely from participating in a discussion, decision, or vote concerning a matter that is related to the elected official's financial interest.
- (2) The elected official may not attempt to persuade or otherwise influence another elected official's vote in the unit in which the elected official serves on a matter for which the elected official has a financial interest.

(b) An elected official may do the following during a regular meeting (excluding an executive session) of the body to which the official is elected and for which public notice was properly provided:

- (1) Notwithstanding subsection (a)(1), participate in a discussion concerning a matter that is related to the elected official's financial interest.
- (2) Notwithstanding subsection (a)(2), attempt to persuade another elected official on a matter for which the elected official has a financial interest.

Sec. 7. (a) This section applies if a majority of the members of the:

- (1) legislative body of a city, town, or township; or
- (2) the members of the county executive or the county fiscal body;

are required by this chapter to recuse themselves from voting on a matter.

(b) The matter shall be considered and resolved by:

- (1) the mayor, in the case of a city legislative body;
- (2) the clerk-treasurer, in the case of a town legislative body;
- (3) the township trustee, in the case of a township legislative body;
- (4) the county fiscal body, in the case of a county executive body; or
- (5) the county executive, in the case of a county fiscal body.

(c) If the vote of a body to which this section applies is tied and the tie cannot be broken because of the recusal of an elected official under this chapter, the vote to break the tie shall be cast by:

- (1) the mayor, in the case of a city legislative body;
- (2) the clerk-treasurer, in the case of a town legislative body;
- (3) the township trustee, in the case of a township legislative body;
- (4) the county fiscal body, in the case of the county executive



body; or

(5) the county executive, in the case of the county fiscal body."

Delete page 2.

Renumber all SECTIONS consecutively.

(Reference is to SB 270 as printed January 29, 2019.)

HEAD

