HOUSE BILL No. 1638

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3-7-1; IC 15-13; IC 34-13-3-2.

Synopsis: State fair. Reorganizes the state fair board (board) member districts. Provides for the transition and retention of current board members. Adds: (1) the director of the Purdue University cooperative extension service as a voting member of the state fair commission (commission); and (2) the chairperson and vice chairperson of the state fair advisory committee and a community representative as nonvoting members of the commission. Provides that not more than two members of the commission may be from the same district. Provides that statewide organizations may be certified by the department of agriculture (department) as eligible to vote in a state fair district election. Requires the director or an employee of the department designated by the director to preside over a district convention. Allows certain individuals to act as observers during the counting of the ballots. Requires the department, after the results of the election have been certified, to: (1) destroy the ballots; and (2) preserve the tally papers. Specifies responsibilities for the commission and board concerning the state fair and the fairgrounds. Repeals statutes concerning the center for agricultural science and heritage. Establishes the committee for agricultural science and heritage to advise the commission. Specifies that both the board and commission are state agencies for purposes of the Indiana tort claims act. Makes conforming changes.

Effective: July 1, 2019.

Lehe, Cherry, Thompson

January 24, 2019, read first time and referred to Committee on Agriculture and Rural Development.
HOUSE BILL No. 1638

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 5-10.3-7-1, AS AMENDED BY P.L.241-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) This section does not apply to:

(1) members of the general assembly; or
(2) employees covered by section 3 of this chapter.

(b) As used in this section, "employees of the state" includes:

(1) employees of the judicial circuits whose compensation is paid from state funds;
(2) elected and appointed state officers;
(3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;
(4) employees in the classified service;
(5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify
payrolls from appropriations or from a trust fund held by the
treasurer of state or by any department;
(6) employees of any state agency that is a body politic and
corporate;
(7) except as provided under IC 5-10.5-7-4, employees of the
board of trustees of the Indiana public retirement system;
(8) persons who:
   (A) are employed by the state;
   (B) have been classified as federal employees by the United
       States Secretary of Agriculture; and
   (C) are excluded from coverage as federal employees by the
       federal Social Security program under 42 U.S.C. 410;
(9) the directors and employees of county offices of family and
   children; and
   (10) employees of the center for agricultural science and heritage
       (the barn); and
   (11) members and employees of the state lottery commission.
   (c) An employee of the state or of a participating political
       subdivision who:
       (1) became a full-time employee of the state or of a participating
           political subdivision in a covered position; and
       (2) had not become a member of the fund;
before April 1, 1988, shall on April 1, 1988, become a member of the
fund unless the employee is excluded from membership under section
2 of this chapter.
   (d) Except as otherwise provided, any individual who becomes a
full-time employee of the state or of a participating political
subdivision in a covered position after March 31, 1988, becomes a
member of the fund on the date the individual's employment begins
unless the individual is excluded from membership under section 2 of
this chapter.
   (e) An individual:
       (1) who becomes a full-time employee of a political subdivision
           in a covered position after June 30, 2015;
       (2) who is employed by a political subdivision that has elected in
           an ordinance or resolution adopted under IC 5-10.3-6-1 and
           approved by the board to require an employee in the covered
           position to become a member of the fund; and
       (3) who is not excluded from membership under section 2 of this
           chapter;
becomes a member of the fund on the date the individual's employment
begins.
(f) An individual:
   (1) who becomes a full-time employee of a political subdivision
   in a covered position after an ordinance or resolution described in
   subdivision (2) that is adopted by the political subdivision has
   been approved by the board;
   (2) who is employed by a political subdivision that has elected in
   an ordinance or resolution adopted under IC 5-10.3-6-1 and
   approved by the board:
      (A) to allow an employee in the covered position to become a
          member of the fund or a member of the public employees'
          defined contribution plan at the discretion of the employee;
      and
      (B) to require an employee in a covered position to make an
          election under IC 5-10.3-12-20.5 in order to become a member
          of the plan;
   (3) who does not make an election under IC 5-10.3-12-20.5 to
       become a member of the public employees' defined contribution
       plan; and
   (4) who is not excluded from membership under section 2 of this
       chapter;
   becomes a member of the fund on the date the individual's employment
   begins.

(g) An individual:
   (1) who becomes a full-time employee of a political subdivision
   in a covered position after an ordinance or resolution described in
   subdivision (2) that is adopted by the political subdivision has
   been approved by the board;
   (2) who is employed by a political subdivision that has elected in
   an ordinance or resolution adopted under IC 5-10.3-6-1 and
   approved by the board:
      (A) to allow an employee in the covered position to become a
          member of the fund or the public employees' defined
          contribution plan at the discretion of the employee; and
      (B) to require an employee to make an election under section
          1.1 of this chapter in order to become a member of the fund;
   (3) who does make an election under section 1.1 of this chapter to
       become a member of the fund; and
   (4) who is not excluded from membership under section 2 of this
       chapter;
   becomes a member of the fund on the date the individual's employment
   begins.

SECTION 2. IC 15-13-1-3, AS ADDED BY P.L.2-2008, SECTION
Sec. 3. "Agricultural interest" means any of the following:
(1) The Indiana Farm Bureau, Inc.
(2) The Farmers' Union.
(3) The Grange.
(4) The National Farmers Organization.
(5) A county or another regularly organized agricultural fair;
    including a county 4-H fair.
(6) The beef cattle industry.
(7) The dairy cattle industry.
(8) The grain growers' industry.
(9) Home economic clubs.
(10) The horticulture industry.
(11) Horse associations.
(12) The poultry industry.
(13) The sheep industry.
(14) The swine industry.
(15) The vegetable growers' industry.
(16) A county cooperative extension board.
(17) A soil and water conservation district.

regularly organized organization in the state that represents,
supports, or promotes farmers, agricultural commodities,
livestock, conservation, county 4-H fairs, exhibition animals, or
county extension boards.

SECTION 3. IC 15-13-1-4 IS REPEALED [EFFECTIVE JULY 1,
2019]. Sec. 4. "Barn" refers to the center for agricultural science and
heritage established by IC 15-13-1-1.

SECTION 4. IC 15-13-1-5 IS REPEALED [EFFECTIVE JULY 1,
2019]. Sec. 5. "Barn director" refers to the individual who administers
the educational programs and operations of the barn.

SECTION 5. IC 15-13-1-8.5 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2019]: Sec. 8.5. "Committee" refers to the committee for
agricultural science and heritage established by IC 15-13-12-2.

SECTION 6. IC 15-13-1-10, AS ADDED BY P.L.2-2008,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 10. "District" means any of the following districts:
(1) District 1 consists of the following counties:
    Benton County
    Carroll County
    Cass County
    Fulton County
1 Jasper County
2 Lake County
3 LaPorte County
4 Marshall County
5 Newton County
6 Porter County
7 Pulaski County
8 Starke County
9 St. Joseph County
10 Warren County
11 White County.
12 (2) District 2 consists of the following counties:
13 Bartholomew County
14 Brown County
15 Cass County
16 Clark County
17 Dearborn County
18 Elkhart County
19 Floyd County
20 Fulton County
21 Harrison County
22 Howard County
23 Jackson County
24 Jefferson County
25 Jennings County
26 Kosciusko County
27 LaPorte County
28 Marshall County
29 Miami County
30 Ohio County
31 Ripley County
32 St. Joseph County
33 Scott County
34 Switzerland County
35 Washington County.
36 Whitley County.
37 (3) District 3 consists of the following counties:
38 Adams County
39 Allen County
40 Blackford County
41 DeKalb County
42 Delaware County
Elkhart County
Grant County
Howard County
Huntington County
Jay County
Kosciusko County
LaGrange County
Miami County
Noble County
Steuben County
Wabash County
Wells County
Whitley County.

(4) District 4 consists of the following counties:

Bartholomew County
Dearborn County
Decatur County
Delaware County
Fayette County
Franklin County
Hamilton County
Hancock County
Henry County
Jay County
Jennings County
Johnson County
Madison County
Ohio County
Randolph County
Ripley County
Rush County
Shelby County
Switzerland County
Tipton County
Union County
Wayne County.

(5) District 5 consists of the following counties:

Clark County
Crawford County
Daviess County
Dubois County
Floyd County
1. Gibson County
2. Harrison County
3. Jackson County
4. Jefferson County
5. Knox County
6. Lawrence County
7. Martin County
8. Orange County
9. Perry County
10. Pike County
11. Posey County
12. Scott County
13. Spencer County
14. Vanderburgh County
15. Warrick County.

(6) District 6 consists of the following counties:
17. Boone County
18. Brown County
19. Clay County
20. Clinton County
21. Fountain County
22. Greene County
23. Hendricks County
24. Monroe County
25. Montgomery County
26. Morgan County
27. Owen County
28. Parke County
29. Putnam County
30. Sullivan County
31. Tippecanoe County
32. Tipton County
33. Vermillion County
34. Vigo County.
35. Warren County.

(7) District 7 consists of the following county:
36. Marion County.

SECTION 7. IC 15-13-1-11, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. "Fair" refers to the agricultural fair held annually by the commission and board under IC 15-13-7.

SECTION 9. IC 15-13-2-2, AS ADDED BY P.L.120-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The commission consists of eight (8) the following members: as follows:

(1) Five (5) members appointed by the governor.
(2) The presiding officer of the board.
(3) The director of the Indiana state department of agriculture appointed under IC 15-11-3-1 or the director's designee.
(4) The presiding officer of the trustees elected under IC 15-13-11-7 or the presiding officer's designee who must be selected from the membership of the trustees.
(4) The director of the Purdue University cooperative extension service or the director’s designee.

(b) The chairperson of the advisory committee appointed under IC 15-13-6-2(d) or a member of the advisory committee designated by the chairperson following may serve as an ex officio nonvoting member of the commission:

(1) The chairperson and vice chairperson of the advisory committee appointed under IC 15-13-6-2(d).
(2) A community representative who represents the communities near the fairgrounds and is appointed by the commission.

(c) Not more than

(1) one (1) member appointed under subsection (a)(1) may reside in the same district; and
(2) three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

(d) Each district is not required to have a member of the commission represent it. However, not more than two (2) members under subsection (a)(1) may reside in the same district.

(e) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

SECTION 10. IC 15-13-3-3, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) The commission is responsible for holding the fair shall ensure that the fair is held annually. Holding the fair shall be given priority over all other activities by the commission during the period the fair is held.

(b) In addition to holding the fair, the commission may:
(1) hold expositions;
(2) hold exhibitions; and
(3) engage in any other lawful activity that does not interfere with
the operation of the fair.

SECTION 11. IC 15-13-3-9, AS AMENDED BY P.L.20-2011,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 9. At the first meeting each year of the advisory
committee, the commission shall report the following:

(1) The activities of the commission during the previous calendar
year.
(2) The financial condition of the commission for the
commission's most recently completed fiscal year.
(3) The commission's plans for the current calendar year.
(4) The activities and financial condition of any nonprofit
subsidiary corporation established under section 11 of this chapter
for the subsidiary corporation's most recent fiscal year.

(5) The commission's governance policy manual.
(6) The board's operational manual.

SECTION 12. IC 15-13-5-3.2 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2019]: Sec. 3.2. (a) As used in this section,
"appointed member" refers to a board member appointed under
section 2(a)(4) of this chapter.
(b) As used in this section, "elected member" refers to a board
member elected under section 2(a)(5) of this chapter.
(c) As used in this section, "new district" refers to a district
defined by IC 15-13-1-10, as in effect after June 30, 2019.
(d) As used in this section "old district" refers to a district
defined by IC 15-13-1-10, as in effect before July 1, 2019.
(e) Notwithstanding any other provision of this chapter, the
following apply after June 30, 2019:
(1) The appointed member from an old district serves as the
appointed member from the new district until the term of the
member expires.
(2) The elected member from an old district serves as the
elected member from the new district until the next scheduled
election in the new district to elect a new member.
(f) The successors of the appointed and elected members
described in this chapter shall be appointed or elected as otherwise
provided in this chapter.
(g) This section expires January 1, 2026.
SECTION 13. IC 15-13-5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5.5. The board shall establish standing committees to assist with planning the fair. Committees related to the following activities are required:

1. Livestock and competitive events.
2. Fundraising and youth development.
3. County fair engagement.
4. Any other committee established by the board.

SECTION 14. IC 15-13-5-10, AS ADDED BY P.L.120-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the Indiana state department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

1. is an agricultural interest, including an agricultural youth or agricultural educational interest that is regularly organized in the state and that represents, supports, or promotes the career, educational, and leadership development of Indiana youth;
2. is regularly organized within the district;
3. has at least ten (10) active members;
4. has elected officers;
5. has an annual meeting;
6. has been in existence for at least one (1) year before the application for certification is filed with the director of the Indiana state department of agriculture; and
7. before July 1 of the year of the election in which the organization wants to participate, files with the director of the Indiana state department of agriculture:
   A. the name of the organization;
   B. the names and addresses of the organization's officers;
   C. the name, address, and title of the individual who is authorized by the organization to vote for the organization in an election under this chapter;
   D. the number of the organization's active members;
   E. a certification that the organization is eligible to be certified under this chapter; and
   F. other information required by the director of the Indiana state department of agriculture.
(b) A certification under subsection (a) expires July 1 of the fourth year after the certification is issued by the director of the Indiana state department of agriculture.

(c) Any organization organized on a statewide basis may cast a vote in any district election, unless the statewide organization certifies an affiliated district or county organization for the same election.

SECTION 15. IC 15-13-5-16, AS ADDED BY P.L.120-2008, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. (a) The director of the Indiana state department of agriculture shall choose from among the members of the commission the individual to or an employee of the department designated by the director shall preside at a district convention.

(b) The presiding officer of the convention may vote in the case of a tie vote on any matter.

SECTION 16. IC 15-13-5-17, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) During September before the term of a member representing a district expires, the individuals designated under section 10(a)(7)(C) of this chapter for each organization certified under section 10 of this chapter for the district shall meet in a district convention to elect the member's successor.

(b) Voting under subsection (a) is by voice concurrent with the submission of a signed secret written ballot by each person voting indicating the person's vote.

SECTION 17. IC 15-13-5-22, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 22. (a) The presiding officer of a district convention shall certify the results of the election under section 21 of this chapter to the commission and to the board.

(b) Each individual who is nominated at the district convention to be a candidate for the member representing the district may appoint an individual who has not been nominated to be an observer to the counting of the ballots. However, if the candidate does not appoint an observer, the individual who nominated the candidate shall serve as the candidate's observer, unless the individual has been nominated as a candidate.

(c) An observer may observe the counting of the ballots but may not participate in the counting or recording of the ballots.

(d) The department shall destroy each ballot submitted under section 17 of this chapter after the results of the election have been certified in accordance with subsection (a). However, after the
results of the election have been certified in accordance with subsection (a), the department may not destroy the tally papers.

SECTION 18. IC 15-13-6-4, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. The advisory committee shall do the following:

1. Serve as a liaison between the:
   (A) commission;
   (B) board of trustees of the barn;
   (C) board; and
   (D) (C) general assembly.

2. Review policies affecting the activities of the:
   (A) commission;
   (B) barn;
   (C) state fair;
   (D) (C) facilities at the fairgrounds; and
   (E) (D) property owned by the commission.

3. Provide long range guidance for the:
   (A) commission; and
   (B) board of trustees of the barn; and
   (C) board.

4. Review annually the:
   (A) commission's; and
   (B) board of trustees of the barn's; and
   (C) board's;
   budgets and other accounts and report financial conditions to the legislative council. A report under this subdivision to the legislative council must be in electronic format under IC 5-14-6.

5. Further advise the budget committee regarding appropriations and other financial matters concerning the:
   (A) commission; and
   (B) barn;
   (C) board.

6. Propose, review, and make recommendations concerning legislation affecting the:
   (A) commission; and
   (B) barn; and
   (C) board.

SECTION 19. IC 15-13-6-5, AS AMENDED BY P.L.53-2014, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) As requested by the advisory committee, the:

1. (1) commission; or
shall provide to the advisory committee information relating to the
operation of each, respectively.

(b) The department of agriculture shall provide staff for the advisory
committee.

SECTION 20. IC 15-13-7-1, AS ADDED BY P.L.2-2008,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 1. (a) The commission and board shall hold one
(1) state agricultural fair each year. The fair must emphasize
agriculture and agribusiness.

(b) The commission is responsible for the following:
(1) Personnel.
(2) Management of the facilities.
(3) Contracts and contract procedures.
(4) All fiduciary responsibilities.

(c) The board is responsible for the following:
(1) Committees established under IC 15-13-5-5.5 to assist with
planning the fair.
(2) Fundraising to support youth development.
(3) Advocating for the fair within the community.
(4) Advising staff on matters related to agriculture and
livestock.

SECTION 21. IC 15-13-7-2, AS ADDED BY P.L.2-2008,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 2. In holding the fair, the commission and the
board are subject to the policies of the commission.

SECTION 22. IC 15-13-11 IS REPEALED [EFFECTIVE JULY 1, 2019]. (Center for Agricultural Science and Heritage).
SECTION 23. IC 15-13-12 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]:

Chapter 12. Committee for Agricultural Science and Heritage
Sec. 1. As used in this chapter, "committee" refers to the
committee for agricultural science and heritage established by
section 2 of this chapter.

Sec. 2. The committee for agricultural science and heritage is
established.

Sec. 3. The committee shall provide the commission with advice
concerning agricultural education matters.

Sec. 4. (a) The committee consists of the following members:
(1) The director of the Purdue University cooperative extension service, who shall serve as chairperson of the committee.

(2) Two (2) members of the commission, appointed by the chairperson of the commission.

(3) Two (2) members of the board, appointed by the presiding officer of the board.

(4) Agricultural and educational professionals, jointly appointed by the chairperson of the committee and the chairperson of the commission.

(b) Members appointed under this section serve at the pleasure of the appointing authority.

Sec. 5. The committee shall meet not less than one (1) time per year.

SECTION 24. IC 34-13-3-2, AS AMENDED BY P.L.198-2016, SECTION 666, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. This chapter applies to a claim or suit in tort against any of the following:

(1) A member of the bureau of motor vehicles commission board established under IC 9-14-9-2.

(2) An employee of the bureau of motor vehicles commission.

(3) A member of the driver education advisory board established by IC 9-27-6-5.

(4) An approved postsecondary educational institution (as defined in IC 21-7-13-6(a)(1)), or an association acting on behalf of an approved postsecondary educational institution, that:
   (A) shares data with the commission for higher education under IC 21-12-12-1; and
   (B) is named as a defendant in a claim or suit in tort based on any breach of the confidentiality of the data that occurs after the institution has transmitted the data in compliance with IC 21-12-12-1.

(5) The state fair commission established by IC 15-13-2-1.

(6) A member of the state fair commission established by IC 15-13-2-1 or an employee of the state fair commission.

(7) The state fair board established by IC 15-13-5-1.

(8) A member of the state fair board established by IC 15-13-5-1.