

SENATE BILL No. 1

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-2; IC 4-21.5; IC 4-33; IC 5-2-1-12.5; IC 6-1.1-4-31.7; IC 6-1.5; IC 8-1; IC 8-2.1; IC 13-15; IC 13-17; IC 13-18; IC 13-19-3-2; IC 13-20; IC 13-23-9-4; IC 13-24-1-4; IC 13-25-4-20; IC 13-30-3; IC 14-10-2; IC 14-22-32-5; IC 14-34; IC 16-19-10-7; IC 16-21-4-2; IC 16-25-5-7; IC 16-27; IC 16-28-10; IC 16-41-11-8; IC 22-4; IC 22-8-1.1-35.1; IC 22-9; IC 24-4.5-6-107; IC 25-1; IC 25-17.6-9; IC 25-31.5-9; IC 25-36.5-1-3.2; IC 28-1-29-14; IC 28-7-5-15.1; IC 28-8; IC 33-26; IC 33-26.5; IC 35-47-11.1-4; IC 36-1-9.5-51; IC 36-8-8.

Synopsis: Administrative law. Replaces administrative law judges and environmental law judges with an administrative court that conducts administrative hearings and other duties formerly conducted by administrative law judges and environmental law judges. Provides that formal judicial reviews of final agency actions or certain other administrative actions taken by the administrative court are conducted by a circuit court or superior court with appropriate jurisdiction. Provides that the administrative court consists of nine judges appointed by the governor for terms of five years. Specifies that a person may serve not more than 10 years on the administrative court. Requires the governor to appoint one of the nine administrative court judges to serve as chief judge of the court. Provides that, when an action is filed with the administrative court, the chief judge assigns a panel of three of the nine judges to hear the action. Specifies that a: (1) decision of the administrative court that is not a judgment requiring or following a judicial review may be initially appealed to the administrative court; and (2) judgment or other decision of the administrative court that requires a formal judicial review may be appealed only to the appropriate circuit court or superior court. Makes conforming amendments. Repeals superseded provisions.

Effective: July 1, 2016.

Steele

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 1

A BILL FOR AN ACT to amend the Indiana Code concerning administrative law.

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

1 SECTION 1. IC 33-26.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2016]:
4 **ARTICLE 26.5. ADMINISTRATIVE COURT**
5 **Chapter 1. Establishment of the Administrative Court**
6 **Sec. 1. The Indiana administrative court is established as of**
7 **January 1, 2017.**
8 **Sec. 2. The administrative court is a court of record.**
9 **Chapter 2. Administrative Court Judges**
10 **Sec. 1. The administrative court consists of nine (9) judges.**
11 **Sec. 2. A judge of the administrative court must:**
12 **(1) be a citizen of Indiana; and**
13 **(2) have been admitted to the practice of law in Indiana.**
14 **Sec. 3. (a) A judge of the administrative court shall be appointed**
15 **by the governor.**
16 **(b) The initial term of office of a person appointed by the**
17 **governor to serve as a judge of the administrative court:**



- 1 (1) begins on the effective date of the appointment; and
 2 (2) ends five (5) years after the effective date of the
 3 appointment.

4 (c) A person who serves as a judge on the administrative court
 5 for one (1) term may be appointed by the governor for one (1)
 6 additional five (5) year term. A person may not serve as a judge of
 7 the administrative court for more than ten (10) years.

8 Sec. 4. (a) The governor shall appoint one (1) of the nine (9)
 9 judges serving on the administrative court to serve as chief judge
 10 of the court.

11 (b) The chief judge is responsible for:

- 12 (1) the operation and conduct of the court; and
 13 (2) seeing that the court operates efficiently and judicially.

14 (c) The chief judge continues to serve as chief judge until
 15 removed and replaced by the governor.

16 Sec. 5. (a) A judge of the administrative court is entitled to an
 17 annual salary equal to the annual salary provided in IC 33-23-5-10
 18 to a magistrate. A judge of the administrative court is not entitled
 19 to the following:

- 20 (1) Reimbursement for traveling expenses and other expenses
 21 actually incurred in connection with the judge's duties.
 22 (2) A subsistence allowance.

23 (b) A judge of the administrative court:

- 24 (1) shall devote full time to judicial duties; and
 25 (2) may not engage in the practice of law.

26 (c) The state shall pay the annual salary prescribed in
 27 subsection (a) from the state general fund.

28 Sec. 6. (a) A judge appointed under this chapter is not
 29 considered:

- 30 (1) an employee of the state for purposes of IC 5-10.3
 31 concerning the public employees' retirement fund; or
 32 (2) a judge for purposes of IC 33-38-6 concerning the judges'
 33 retirement system.

34 (b) A judge appointed under this chapter may elect to
 35 participate in either:

- 36 (1) the plan of self-insurance established by the state police
 37 department under IC 5-10-8-6;
 38 (2) the plan of self-insurance established by the state
 39 personnel department under IC 5-10-8-7; or
 40 (3) a prepaid health care delivery plan established under
 41 IC 5-10-8-7.

42 A judge who chooses a plan described in subdivision (1) shall pay



1 any amount of both the employer and the employee share of the
 2 cost of the coverage that exceeds the cost of the coverage under the
 3 new traditional plan.

4 **Chapter 3. Jurisdiction**

5 **Sec. 1.** Except as provided in section 2 of this chapter, the
 6 administrative court has jurisdiction over all hearings,
 7 proceedings, reviews, appeals, and civil enforcements concerning
 8 agency administrative actions under:

9 (1) IC 4-21.5; or

10 (2) any other statute that requires or allows the
 11 administrative court to take action.

12 **Sec. 2. (a)** The administrative court may not conduct formal
 13 judicial reviews of:

14 (1) administrative court decisions; or

15 (2) final agency actions or other agency actions subject to
 16 judicial review as provided in:

17 (A) IC 4-21.5-5; or

18 (B) any other statute that provides for judicial review of
 19 administrative actions.

20 (b) A circuit court or superior court with appropriate
 21 jurisdiction shall conduct formal judicial reviews of agency actions,
 22 including administrative court decisions, as provided in:

23 (1) IC 4-21.5-5; or

24 (2) any other statute that provides for judicial review of
 25 administrative actions.

26 **Chapter 4. Offices and Personnel**

27 **Sec. 1. (a)** The administrative court shall maintain its principal
 28 office in Indianapolis.

29 (b) The Indiana department of administration shall provide
 30 suitable facilities for the court in Indianapolis.

31 **Sec. 2. (a)** Each judge of the administrative court may employ
 32 not more than two (2) persons to serve the judge as:

33 (1) bailiff;

34 (2) clerk;

35 (3) reporter; and

36 (4) clerical assistant.

37 (b) The state shall pay the annual salary prescribed of persons
 38 employed under subsection (a) from the state general fund.

39 **Sec. 3.** The clerk of the supreme court shall serve as the clerk of
 40 the administrative court.

41 **Chapter 5. Fees**

42 **Sec. 1.** A person who initiates an administrative hearing,



1 proceeding, review, appeal, or civil enforcement concerning an
2 agency action under:

3 (1) IC 4-21.5; or

4 (2) any other statute that provides jurisdiction to the
5 administrative court concerning administrative actions;
6 in the administrative court shall pay to the clerk of the supreme
7 court a one-time fee of one hundred fifty dollars (\$150).

8 Sec. 2. Unless otherwise established by statute or a rule of the
9 Indiana supreme court, the administrative court may fix and
10 charge a fee for preparing, comparing, or certifying a transcript.
11 However, the administrative court's fee may not exceed the fee
12 charged by circuit courts for the same service.

13 Sec. 3. The clerk of the supreme court shall collect the fees
14 imposed under sections 1 and 2 of this chapter. The clerk shall
15 transmit the fees to the treasurer of state. The treasurer shall
16 deposit the fees in the state general fund to be used to defray the
17 costs of operating the administrative court.

18 **Chapter 6. Procedures**

19 Sec. 1. (a) When an action that originates under:

20 (1) IC 4-21.5; or

21 (2) another statute;

22 is filed with the administrative court, the chief judge shall assign a
23 panel of three (3) of the nine (9) judges to hear the action.

24 (b) A majority vote of the judges appointed to a panel
25 established under subsection (a) is required for the administrative
26 court to take any action or reach any decision.

27 Sec. 2. The procedures of the administrative law court are
28 governed by:

29 (1) IC 4-21.5; and

30 (2) for any matters not covered by IC 4-21.5, the Indiana rules
31 of court concerning:

32 (A) small claims; and

33 (B) evidence.

34 Sec. 3. (a) The administrative court shall render its decisions in
35 writing.

36 (b) Written decisions of the administrative court may be
37 published and distributed in the manner prescribed by the
38 supreme court.

39 Sec. 4. A:

40 (1) decision of the administrative court that is not a judgment:

41 (A) subject to; or

42 (B) following;



1 a judicial review may be initially appealed to the
 2 administrative court; and
 3 (2) judgment or other decision of the administrative court that
 4 is subject to judicial review may be challenged by bringing an
 5 action in a circuit court or superior court that has
 6 jurisdiction.

7 **Chapter 7. Transitional Provisions**

8 **Sec. 1. The governor shall appoint the initial:**

- 9 (1) chief judge; and
 10 (2) other eight (8) judges;

11 of the administrative court before December 1, 2016.

12 **Sec. 2. Notwithstanding the establishment of the administrative**
 13 **court under this article on January 1, 2017, a matter pending**
 14 **before an administrative law judge or environmental law judge**
 15 **under IC 4-21.5 or another applicable statute on December 31,**
 16 **2016, shall be decided by the administrative law judge under the**
 17 **laws in effect on June 30, 2016.**

18 SECTION 2. IC 4-2-6-11, AS AMENDED BY P.L.123-2015,
 19 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 11. (a) As used in this section, "particular matter"
 21 means any of the following:

- 22 (1) An application.
 23 (2) A business transaction.
 24 (3) A claim.
 25 (4) A contract.
 26 (5) A determination.
 27 (6) An enforcement proceeding.
 28 (7) An investigation.
 29 (8) A judicial proceeding.
 30 (9) A lawsuit.
 31 (10) A license.
 32 (11) An economic development project.
 33 (12) A public works project.

34 The term does not include the proposal or consideration of a legislative
 35 matter or the proposal, consideration, adoption, or implementation of
 36 a rule or an administrative policy or practice of general application.

37 (b) A former state officer, employee, or special state appointee may
 38 not accept employment or receive compensation:

- 39 (1) as a lobbyist;
 40 (2) from an employer if the former state officer, employee, or
 41 special state appointee was:
 42 (A) engaged in the negotiation or the administration of one (1)



- 1 or more contracts with that employer on behalf of the state or
 2 an agency; and
 3 (B) in a position to make a discretionary decision affecting the:
 4 (i) outcome of the negotiation; or
 5 (ii) nature of the administration; or
 6 (3) from an employer if the former state officer, employee, or
 7 special state appointee made a regulatory or licensing decision
 8 that directly applied to the employer or to a parent or subsidiary
 9 of the employer;
 10 before the elapse of at least three hundred sixty-five (365) days after
 11 the date on which the former state officer, employee, or special state
 12 appointee ceases to be a state officer, employee, or special state
 13 appointee.
 14 (c) A former state officer, employee, or special state appointee may
 15 not represent or assist a person in a particular matter involving the state
 16 if the former state officer, employee, or special state appointee
 17 personally and substantially participated in the matter as a state officer,
 18 employee, or special state appointee, even if the former state officer,
 19 employee, or special state appointee receives no compensation for the
 20 representation or assistance.
 21 (d) A former state officer, employee, or special state appointee may
 22 not accept employment or compensation from an employer if the
 23 circumstances surrounding the employment or compensation would
 24 lead a reasonable person to believe that:
 25 (1) employment; or
 26 (2) compensation;
 27 is given or had been offered for the purpose of influencing the former
 28 state officer, employee, or special state appointee in the performance
 29 of the individual's duties or responsibilities while a state officer, an
 30 employee, or a special state appointee.
 31 (e) A written advisory opinion issued by the commission certifying
 32 that:
 33 (1) employment of;
 34 (2) consultation by;
 35 (3) representation by; or
 36 (4) assistance from;
 37 the former state officer, employee, or special state appointee does not
 38 violate this section is conclusive proof that a former state officer,
 39 employee, or special state appointee is not in violation of this section.
 40 (f) Subsection (b) does not apply to the following:
 41 (1) A special state appointee who serves only as a member of an
 42 advisory body.



- 1 (2) A former state officer, employee, or special state appointee
2 who has:
- 3 (A) not negotiated or administered any contracts with that
4 employer in the two (2) years before the beginning of
5 employment or consulting negotiations with that employer;
6 and
- 7 (B) any contract that:
- 8 (i) the former state officer, employee, or special state
9 appointee may have negotiated or administered before the
10 two (2) years preceding the beginning of employment or
11 consulting negotiations; and
12 (ii) is no longer active.
- 13 (g) An employee's or a special state appointee's state officer or
14 appointing authority may waive application of subsection (b) or (c) in
15 individual cases when consistent with the public interest. A waiver
16 must satisfy all of the following:
- 17 (1) The waiver must be signed by an employee's or a special state
18 appointee's:
- 19 (A) state officer or appointing authority authorizing the
20 waiver; and
- 21 (B) agency ethics officer attesting to form.
- 22 (2) The waiver must include the following information:
- 23 (A) Whether the employee's prior job duties involved
24 substantial decision making authority over policies, rules, or
25 contracts.
- 26 (B) The nature of the duties to be performed by the employee
27 for the prospective employer.
- 28 (C) Whether the prospective employment is likely to involve
29 substantial contact with the employee's former agency and the
30 extent to which any such contact is likely to involve matters
31 where the agency has the discretion to make decisions based
32 on the work product of the employee.
- 33 (D) Whether the prospective employment may be beneficial to
34 the state or the public, specifically stating how the intended
35 employment is consistent with the public interest.
- 36 (E) The extent of economic hardship to the employee if the
37 request for a waiver is denied.
- 38 (3) The waiver must be filed with and presented to the
39 commission by the state officer or appointing authority
40 authorizing the waiver.
- 41 (4) The waiver must be limited to an employee or a special state
42 appointee who obtains the waiver before engaging in the conduct



1 that would give rise to a violation of subsection (b) or (c).
 2 The commission may conduct an administrative review of a waiver and
 3 approve a waiver only if the commission is satisfied that the
 4 information provided under subdivision (2) is specifically and
 5 satisfactorily articulated. The inspector general may adopt rules under
 6 IC 4-22-2 to establish criteria for post employment waivers.

7 (h) Subsection (b) applies, subject to waiver under subsection (g),
 8 to a former state officer, employee, or special state appointee who

9 ~~(1) made decisions as an administrative law judge; or~~

10 ~~(2) presided over information gathering or order drafting~~
 11 ~~proceedings~~

12 that directly applied to the employer or to a parent or subsidiary of the
 13 employer in a material manner.

14 (i) A former state officer, employee, or special state appointee who
 15 forms a sole proprietorship or a professional practice and engages in a
 16 business relationship with an entity that would otherwise violate this
 17 section must file a disclosure statement with the commission not later
 18 than one hundred eighty (180) days after separation from state service.

19 The disclosure must:

20 (1) be signed by the former state officer, employee, or special
 21 state appointee;

22 (2) certify that the former state officer, employee, or special state
 23 appointee is not an employee of the entity; and

24 (3) state in detail the treatment of taxes, insurance, and any other
 25 benefits between the entity and the former state officer, employee,
 26 or state appointee.

27 (j) The inspector general may not seek a state elected office before
 28 the elapse of at least three hundred sixty-five (365) days after leaving
 29 the inspector general position.

30 SECTION 3. IC 4-2-7-3, AS AMENDED BY P.L.72-2014,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 3. The inspector general shall do the following:

33 (1) Initiate, supervise, and coordinate investigations.

34 (2) Recommend policies and carry out other activities designed to
 35 deter, detect, and eradicate fraud, waste, abuse, mismanagement,
 36 and misconduct in state government.

37 (3) Receive complaints alleging the following:

38 (A) A violation of the code of ethics.

39 (B) Bribery (IC 35-44.1-1-2).

40 (C) Official misconduct (IC 35-44.1-1-1).

41 (D) Conflict of interest (IC 35-44.1-1-4).

42 (E) Profiteering from public service (IC 35-44.1-1-5).



- 1 (F) A violation of the executive branch lobbying rules.
 2 (G) A violation of a statute or rule relating to the purchase of
 3 goods or services by a current or former employee, state
 4 officer, special state appointee, lobbyist, or person who has a
 5 business relationship with an agency.
 6 (4) If the inspector general has reasonable cause to believe that a
 7 crime has occurred or is occurring, report the suspected crime to:
 8 (A) the governor; and
 9 (B) appropriate state or federal law enforcement agencies and
 10 prosecuting authorities having jurisdiction over the matter.
 11 (5) Adopt rules under IC 4-22-2 to implement IC 4-2-6 and this
 12 chapter.
 13 (6) Adopt rules under IC 4-22-2 and section 5 of this chapter to
 14 implement a code of ethics.
 15 (7) Ensure that every:
 16 (A) employee;
 17 (B) state officer;
 18 (C) special state appointee; and
 19 (D) person who has a business relationship with an agency;
 20 is properly trained in the code of ethics.
 21 (8) Provide advice to an agency on developing, implementing,
 22 and enforcing policies and procedures to prevent or reduce the
 23 risk of fraudulent or wrongful acts within the agency.
 24 (9) Recommend legislation to the governor and general assembly
 25 to strengthen public integrity laws, including the code of ethics
 26 for state officers, employees, special state appointees, and persons
 27 who have a business relationship with an agency, including
 28 whether additional specific state officers, employees, or special
 29 state appointees should be required to file a financial disclosure
 30 statement under IC 4-2-6-8.
 31 (10) Annually submit a report to the legislative council detailing
 32 the inspector general's activities. The report must be in an
 33 electronic format under IC 5-14-6.
 34 (11) Prescribe and provide forms for statements required to be
 35 filed under IC 4-2-6 or this chapter.
 36 (12) Accept and file information that:
 37 (A) is voluntarily supplied; and
 38 (B) exceeds the requirements of this chapter.
 39 (13) Inspect financial disclosure forms.
 40 (14) Notify persons who fail to file forms required under IC 4-2-6
 41 or this chapter.
 42 (15) Develop a filing, a coding, and an indexing system required



1 by IC 4-2-6 and IC 35-44.1-1.

2 (16) Prepare interpretive and educational materials and programs.

3 (17) Adopt rules under IC 4-22-2 and section 9 of this chapter to
4 implement a statewide code of judicial conduct for administrative
5 law judges. The inspector general may adopt emergency rules in
6 the manner provided under IC 4-22-2-37.1 to implement a
7 statewide code of judicial conduct for administrative law judges.

8 SECTION 4. IC 4-2-7-9 IS REPEALED [EFFECTIVE JULY 1,
9 2016]. Sec. 9: (a) The inspector general shall adopt rules under
10 IC 4-22-2 establishing a statewide code of judicial conduct for
11 administrative law judges. The statewide code of judicial conduct for
12 administrative law judges must apply to every person acting as an
13 administrative law judge for a state agency.

14 (b) The inspector general:

15 (1) shall review 312 IAC 3-1-2.5 and 315 IAC 1-1-2 in adopting
16 a statewide code of judicial conduct for administrative law judges;
17 and

18 (2) may base the statewide code of judicial conduct for
19 administrative law judges on 312 IAC 3-1-2.5 and 315 IAC 1-1-2.

20 (c) A state agency may adopt rules under IC 4-22-2 to establish a
21 supplemental code of judicial conduct for a person acting as an
22 administrative law judge for that agency, if the supplemental code is at
23 least as restrictive as the statewide code of judicial conduct for
24 administrative law judges.

25 (d) The inspector general may adopt emergency rules in the manner
26 provided under IC 4-22-2-37.1 to implement a statewide code of
27 judicial conduct for administrative law judges.

28 (e) The statewide code of judicial conduct for administrative law
29 judges shall be enforced under IC 4-21.5. The inspector general is not
30 responsible for enforcing the statewide code of judicial conduct for
31 administrative law judges or for investigating a possible violation of the
32 statewide code.

33 SECTION 5. IC 4-21.5-1-1.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2016]: Sec. 1.5. "Administrative court"
36 refers to the administrative court established under IC 33-26.5.

37 SECTION 6. IC 4-21.5-1-2 IS REPEALED [EFFECTIVE JULY 1,
38 2016]. Sec. 2: "Administrative law judge" refers to an individual or
39 panel of individuals acting in the capacity of an administrative law
40 judge in a proceeding.

41 SECTION 7. IC 4-21.5-1-3 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. "Agency" means any



1 officer, board, commission, department division, bureau, or committee
2 of state government that is responsible for any stage of a proceeding
3 under this article. ~~Except as provided in IC 4-21.5-7,~~ The term does not
4 include the judicial department of state government, the legislative
5 department of state government, or a political subdivision.

6 SECTION 8. IC 4-21.5-1-5 IS REPEALED [EFFECTIVE JULY 1,
7 2016]. ~~Sec. 5: "Court" means a circuit or superior court responsible for
8 taking any action under this article.~~

9 SECTION 9. IC 4-21.5-3-4, AS AMENDED BY P.L.3-2014,
10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2016]: Sec. 4. (a) Notice must be given under this section
12 concerning the following:

13 (1) The grant, renewal, restoration, transfer, or denial of a license
14 by the bureau of motor vehicles under IC 9.

15 (2) The grant, renewal, restoration, transfer, or denial of a
16 noncommercial fishing or hunting license by the department of
17 natural resources under IC 14.

18 (3) The grant, renewal, restoration, transfer, or denial of a license
19 by an entity described in IC 25-0.5-9.

20 (4) The grant, renewal, suspension, revocation, or denial of a
21 certificate of registration under IC 25-5.2.

22 (5) A personnel decision by an agency.

23 (6) The grant, renewal, restoration, transfer, or denial of a license
24 by the department of environmental management or the
25 commissioner of the department under the following:

26 (A) Environmental management laws (as defined in
27 IC 13-11-2-71) for the construction, installation, or
28 modification of:

29 (i) sewers and appurtenant facilities, devices, or structures
30 for the collection and transport of sewage (as defined in
31 IC 13-11-2-200) or storm water to a storage or treatment
32 facility or to a point of discharge into the environment; or

33 (ii) pipes, pumps, and appurtenant facilities, devices, or
34 structures that are part of a public water system (as defined
35 in IC 13-11-2-177.3) and that are used to transport water to
36 a storage or treatment facility or to distribute water to the
37 users of the public water system;

38 where a federal, state, or local governmental body has given or
39 will give public notice and has provided or will provide an
40 opportunity for public participation concerning the activity
41 that is the subject of the license.

42 (B) Environmental management laws (as defined in



- 1 IC 13-11-2-71) for the registration of a device or a piece of
 2 equipment.
 3 (C) IC 13-17-6-1 for a person to engage in the inspection,
 4 management, and abatement of asbestos containing material.
 5 (D) IC 13-18-11 for a person to operate a wastewater treatment
 6 plant.
 7 (E) IC 13-15-10 for a person to operate the following:
 8 (i) A solid waste incinerator or a waste to energy facility.
 9 (ii) A land disposal site.
 10 (iii) A facility described under IC 13-15-1-3 whose
 11 operation could have an adverse impact on the environment
 12 if not operated properly.
 13 (F) IC 13-20-4 for a person to operate a municipal waste
 14 collection and transportation vehicle.
 15 (b) When an agency issues an order described by subsection (a), the
 16 agency shall give a written notice of the order to the following persons:
 17 (1) Each person to whom the order is specifically directed.
 18 (2) Each person to whom a law requires notice to be given.
 19 A person who is entitled to notice under this subsection is not a party
 20 to any proceeding resulting from the grant of a petition for review
 21 under section 7 of this chapter unless the person is designated as a
 22 party on the record of the proceeding.
 23 (c) The notice must include the following:
 24 (1) A brief description of the order.
 25 (2) A brief explanation of the available procedures and the time
 26 limit for seeking administrative review of the order under section
 27 7 of this chapter.
 28 (3) Any information required by law.
 29 (d) An order under this section is effective when it is served.
 30 However, if a timely and sufficient application has been made for
 31 renewal of a license described by subsection (a)(3) and review is
 32 granted under section 7 of this chapter, the existing license does not
 33 expire until the agency has disposed of the proceeding under this
 34 chapter concerning the renewal, unless a statute other than this article
 35 provides otherwise. This subsection does not preclude an agency from
 36 issuing under IC 4-21.5-4 an emergency or other temporary order with
 37 respect to the license.
 38 (e) If a petition for review of an order described in subsection (a) is
 39 filed within the period set by section 7 of this chapter and a petition for
 40 stay of effectiveness of the order is filed by a party or another person
 41 who has a pending petition for intervention in the proceeding, ~~an~~ **the**
 42 administrative law judge ~~and~~ **court** shall, as soon as practicable, conduct



1 a preliminary hearing to determine whether the order should be stayed
 2 in whole or in part. The burden of proof in the preliminary hearing is
 3 on the person seeking the stay. The administrative ~~law judge~~ **court** may
 4 stay the order in whole or in part. The order concerning the stay may be
 5 issued after an order described in subsection (a) becomes effective. The
 6 resulting order concerning the stay shall be served on the parties and
 7 any person who has a pending petition for intervention in the
 8 proceeding. It must include a statement of the facts and law on which
 9 it is based.

10 SECTION 10. IC 4-21.5-3-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Notice shall be
 12 given under this section concerning the following:

- 13 (1) The grant, renewal, restoration, transfer, or denial of a license
 14 not described by section 4 of this chapter.
- 15 (2) The approval, renewal, or denial of a loan, grant of property
 16 or services, bond, financial guarantee, or tax incentive.
- 17 (3) The grant or denial of a license in the nature of a variance or
 18 exemption from a law.
- 19 (4) The determination of tax due or other liability.
- 20 (5) A determination of status.
- 21 (6) Any order that does not impose a sanction or terminate a legal
 22 right, duty, privilege, immunity, or other legal interest.

23 (b) When an agency issues an order described in subsection (a), the
 24 agency shall give a written notice of the order to the following persons:

- 25 (1) Each person to whom the order is specifically directed.
- 26 (2) Each person to whom a law requires notice to be given.
- 27 (3) Each competitor who has applied to the agency for a mutually
 28 exclusive license, if issuance is the subject of the order and the
 29 competitor's application has not been denied in an order for which
 30 all rights to judicial review have been waived or exhausted.
- 31 (4) Each person who has provided the agency with a written
 32 request for notification of the order, if the request:
 - 33 (A) describes the subject of the order with reasonable
 34 particularity; and
 - 35 (B) is delivered to the agency at least seven (7) days before the
 36 day that notice is given under this section.
- 37 (5) Each person who has a substantial and direct proprietary
 38 interest in the subject of the order.
- 39 (6) Each person whose absence as a party in the proceeding
 40 concerning the order would deny another party complete relief in
 41 the proceeding or who claims an interest related to the subject of
 42 the order and is so situated that the disposition of the matter, in



1 the person's absence, may:

2 (A) as a practical matter impair or impede the person's ability
3 to protect that interest; or

4 (B) leave any other person who is a party to a proceeding
5 concerning the order subject to a substantial risk of incurring
6 multiple or otherwise inconsistent obligations by reason of the
7 person's claimed interest.

8 A person who is entitled to notice under this subsection is not a party
9 to any proceeding resulting from the grant of a petition for review
10 under section 7 of this chapter unless the person is designated as a
11 party in the record of the proceeding.

12 (c) The notice required by subsection (a) must include the
13 following:

14 (1) A brief description of the order.

15 (2) A brief explanation of the available procedures and the time
16 limit for seeking administrative review of the order under section
17 7 of this chapter.

18 (3) A brief explanation of how the person may obtain notices of
19 any prehearing conferences, preliminary hearings, hearings, stays,
20 and any orders disposing of the proceedings without intervening
21 in the proceeding, if a petition for review is granted under section
22 7 of this chapter.

23 (4) Any other information required by law.

24 (d) An agency issuing an order under this section or conducting an
25 administrative review of the order shall give notice of any:

26 (1) prehearing conference;

27 (2) preliminary hearing;

28 (3) hearing;

29 (4) stay; or

30 (5) order disposing of all proceedings;

31 concerning the order to a person notified under subsection (b) who
32 requests these notices in the manner specified under subsection (c)(3).

33 (e) If a statute requires an agency to solicit comments from the
34 public in a nonevidentiary public hearing before issuing an order
35 described by subsection (a), the agency shall announce at the opening
36 and the close of the public hearing how a person may receive notice of
37 the order under subsection (b)(4).

38 (f) If a petition for review and a petition for stay of effectiveness of
39 an order described in subsection (a) has not been filed, the order is
40 effective fifteen (15) days (or any longer period during which a person
41 may, by statute, seek administrative review of the order) after the order
42 is served. If both a petition for review and a petition for stay of



1 effectiveness are filed before the order becomes effective, any part of
 2 the order that is within the scope of the petition for stay is stayed for an
 3 additional fifteen (15) days. Any part of the order that is not within the
 4 scope of the petition is not stayed. The order takes effect regardless of
 5 whether the persons described by subsection (b)(5) or (b)(6) have been
 6 served. An agency shall make a good faith effort to identify and notify
 7 these persons, and the agency has the burden of persuasion that it has
 8 done so. The agency may request that the applicant for the order assist
 9 in the identification of these persons. Failure to notify any of these
 10 persons is not grounds for invalidating an order, unless an unnotified
 11 person is substantially prejudiced by the lack of notice. The burden of
 12 persuasion as to substantial prejudice is on the unnotified person.

13 (g) If a timely and sufficient application has been made for renewal
 14 of a license with reference to any activity of a continuing nature and
 15 review is granted under section 7 of this chapter, the existing license
 16 does not expire until the agency has disposed of a proceeding under
 17 this chapter concerning the renewal, unless a statute other than this
 18 article provides otherwise. This subsection does not preclude an agency
 19 from issuing, under IC 4-21.5-4, an emergency or other temporary
 20 order with respect to the license.

21 (h) On the motion of any party or other person having a pending
 22 petition for intervention in the proceeding, ~~an the administrative law~~
 23 ~~judge court~~ shall, as soon as practicable, conduct a preliminary hearing
 24 to determine whether the order should be stayed. The burden of proof
 25 in the preliminary hearing is on the person seeking the stay. The
 26 administrative ~~law judge court~~ may stay the order in whole or in part.
 27 The order concerning the stay may be issued before or after the order
 28 described in subsection (a) becomes effective. The resulting order
 29 concerning the stay shall be served on the parties, any person who has
 30 a pending petition for intervention in the proceeding, and any person
 31 who has requested notice under subsection (d). It must include a
 32 statement of the facts and law on which it is based.

33 SECTION 11. IC 4-21.5-3-6, AS AMENDED BY P.L.186-2015,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2016]: Sec. 6. (a) Notice shall be given under this section
 36 concerning the following:

37 (1) A safety order under IC 22-8-1.1.

38 (2) Any order that:

39 (A) imposes a sanction on a person or terminates a legal right,
 40 duty, privilege, immunity, or other legal interest of a person;

41 (B) is not described in section 4 or 5 of this chapter or
 42 IC 4-21.5-4; and



- 1 (C) by statute becomes effective without a proceeding under
 2 this chapter if there is no request for a review of the order
 3 within a specified period after the order is issued or served.
- 4 (3) A notice of program reimbursement or equivalent
 5 determination or other notice regarding a hospital's
 6 reimbursement issued by the office of Medicaid policy and
 7 planning or by a contractor of the office of Medicaid policy and
 8 planning regarding a hospital's year end cost settlement.
- 9 (4) A determination of audit findings or an equivalent
 10 determination by the office of Medicaid policy and planning or by
 11 a contractor of the office of Medicaid policy and planning arising
 12 from a Medicaid postpayment or concurrent audit of a hospital's
 13 Medicaid claims.
- 14 (5) A license suspension or revocation under:
 15 (A) IC 24-4.4-2;
 16 (B) IC 24-4.5-3;
 17 (C) IC 28-1-29;
 18 (D) IC 28-7-5;
 19 (E) IC 28-8-4; or
 20 (F) IC 28-8-5.
- 21 (6) An order issued by the:
 22 (A) division of aging or the bureau of aging services; or
 23 (B) division of disability and rehabilitative services or the
 24 bureau of developmental disabilities services;
 25 against providers regulated by the division of aging or the bureau
 26 of developmental disabilities services and not licensed by the
 27 state department of health under IC 16-27 or IC 16-28.
- 28 (b) When an agency issues an order described by subsection (a), the
 29 agency shall give notice to the following persons:
 30 (1) Each person to whom the order is specifically directed.
 31 (2) Each person to whom a law requires notice to be given.
- 32 A person who is entitled to notice under this subsection is not a party
 33 to any proceeding resulting from the grant of a petition for review
 34 under section 7 of this chapter unless the person is designated as a
 35 party in the record of the proceeding.
- 36 (c) The notice must include the following:
 37 (1) A brief description of the order.
 38 (2) A brief explanation of the available procedures and the time
 39 limit for seeking administrative review of the order under section
 40 7 of this chapter.
 41 (3) Any other information required by law.
 42 (d) An order described in subsection (a) is effective fifteen (15) days



1 after the order is served, unless a statute other than this article specifies
 2 a different date or the agency specifies a later date in its order. This
 3 subsection does not preclude an agency from issuing, under
 4 IC 4-21.5-4, an emergency or other temporary order concerning the
 5 subject of an order described in subsection (a).

6 (e) If a petition for review of an order described in subsection (a) is
 7 filed within the period set by section 7 of this chapter and a petition for
 8 stay of effectiveness of the order is filed by a party or another person
 9 who has a pending petition for intervention in the proceeding, ~~an the~~
 10 administrative ~~law judge~~ **court** shall, as soon as practicable, conduct
 11 a preliminary hearing to determine whether the order should be stayed
 12 in whole or in part. The burden of proof in the preliminary hearing is
 13 on the person seeking the stay. The administrative ~~law judge~~ **court** may
 14 stay the order in whole or in part. The order concerning the stay may be
 15 issued after an order described in subsection (a) becomes effective. The
 16 resulting order concerning the stay shall be served on the parties and
 17 any person who has a pending petition for intervention in the
 18 proceeding. It must include a statement of the facts and law on which
 19 it is based.

20 SECTION 12. IC 4-21.5-3-7, AS AMENDED BY P.L.6-2012,
 21 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2016]: Sec. 7. (a) To qualify for review of a personnel action
 23 to which IC 4-15-2.2 applies, a person must comply with
 24 IC 4-15-2.2-42. To qualify for review of any other order described in
 25 section 4, 5, or 6 of this chapter, a person must petition for review in a
 26 writing that does the following:

27 (1) States facts demonstrating that:

28 (A) the petitioner is a person to whom the order is specifically
 29 directed;

30 (B) the petitioner is aggrieved or adversely affected by the
 31 order; or

32 (C) the petitioner is entitled to review under any law.

33 (2) Includes, with respect to determinations of notice of program
 34 reimbursement and audit findings described in section 6(a)(3) and
 35 6(a)(4) of this chapter, a statement of issues that includes:

36 (A) the specific findings, action, or determination of the office
 37 of Medicaid policy and planning or of a contractor of the
 38 office of Medicaid policy and planning from which the
 39 provider is appealing;

40 (B) the reason the provider believes that the finding, action, or
 41 determination of the office of Medicaid policy and planning or
 42 of a contractor of the office of Medicaid policy and planning



1 was in error; and
 2 (C) with respect to each finding, action, or determination of
 3 the office of Medicaid policy and planning or of a contractor
 4 of the office of Medicaid policy and planning, the statutes or
 5 rules that support the provider's contentions of error.
 6 Not more than thirty (30) days after filing a petition for review
 7 under this section, and upon a finding of good cause by the
 8 administrative ~~law judge~~, **court**, a person may amend the
 9 statement of issues contained in a petition for review to add one
 10 (1) or more additional issues.
 11 (3) Is filed:
 12 (A) with respect to an order described in section 4, 5, 6(a)(1),
 13 6(a)(2), or 6(a)(5) of this chapter, with the ultimate authority
 14 for the agency issuing the order within fifteen (15) days after
 15 the person is given notice of the order or any longer period set
 16 by statute; or
 17 (B) with respect to a determination described in section 6(a)(3)
 18 or 6(a)(4) of this chapter, with the office of Medicaid policy
 19 and planning not more than one hundred eighty (180) days
 20 after the hospital is provided notice of the determination.
 21 The issuance of an amended notice of program reimbursement by
 22 the office of Medicaid policy and planning does not extend the
 23 time within which a hospital must file a petition for review from
 24 the original notice of program reimbursement under clause (B),
 25 except for matters that are the subject of the amended notice of
 26 program reimbursement.
 27 If the petition for review is denied, the petition shall be treated as a
 28 petition for intervention in any review initiated under subsection (d).
 29 (b) If an agency denies a petition for review under subsection (a)
 30 and the petitioner is not allowed to intervene as a party in a proceeding
 31 resulting from the grant of the petition for review of another person, the
 32 agency shall serve a written notice on the petitioner that includes the
 33 following:
 34 (1) A statement that the petition for review is denied.
 35 (2) A brief explanation of the available procedures and the time
 36 limit for seeking administrative review of the denial under
 37 subsection (c).
 38 (c) ~~An agency shall assign an~~ **The administrative law judge to court**
 39 **shall** conduct a preliminary hearing on the issue of whether a person is
 40 qualified under subsection (a) to obtain review of an order when a
 41 person requests reconsideration of the denial of review in a writing
 42 that:



- 1 (1) states facts demonstrating that the person filed a petition for
 2 review of an order described in section 4, 5, or 6 of this chapter;
 3 (2) states facts demonstrating that the person was denied review
 4 without an evidentiary hearing; and
 5 (3) is filed with the ultimate authority for the agency denying the
 6 review within fifteen (15) days after the notice required by
 7 subsection (b) was served on the petitioner.

8 Notice of the preliminary hearing shall be given to the parties, each
 9 person who has a pending petition for intervention in the proceeding,
 10 and any other person described by section 5(d) of this chapter. The
 11 resulting order must be served on the persons to whom notice of the
 12 preliminary hearing must be given and include a statement of the facts
 13 and law on which it is based.

14 (d) If a petition for review is granted, the petitioner becomes a party
 15 to the proceeding and the agency shall assign the matter to an
 16 administrative law judge or certify the matter to another agency for the
 17 assignment of an administrative law judge (if a statute transfers
 18 responsibility for a hearing on the matter to another agency). The
 19 agency granting the administrative review or the agency to which the
 20 matter is transferred may conduct informal proceedings to settle the
 21 matter to the extent allowed by law. **court shall hear the review.**

22 SECTION 13. IC 4-21.5-3-8.5 IS REPEALED [EFFECTIVE JULY
 23 1, 2016]. Sec. 8.5: (a) An agency may share an administrative law
 24 judge with another agency:

- 25 (1) to avoid bias, prejudice, interest in the outcome, or another
 26 conflict of interest;
 27 (2) if a party requests a change of administrative law judge;
 28 (3) to ease scheduling difficulties; or
 29 (4) for another good cause:

30 An agency may adopt rules under IC 4-22-2 to implement this
 31 subsection:

32 (b) To the extent practicable, an administrative law judge must have
 33 expertise in the area of law being adjudicated:

34 (c) An agency shall post on the agency's Internet web site the:

- 35 (1) name;
 36 (2) salary and other remuneration; and
 37 (3) relevant professional experience;

38 of every person who serves as an administrative law judge for the
 39 agency:

40 SECTION 14. IC 4-21.5-3-9 IS REPEALED [EFFECTIVE JULY
 41 1, 2016]. Sec. 9: (a) Except to the extent that a statute other than this
 42 article limits an agency's discretion to select an administrative law



1 judge, the ultimate authority for an agency may:

2 (1) act as an administrative law judge;

3 (2) designate one (1) or more members of the ultimate authority
4 (if the ultimate authority is a panel of individuals) to act as an
5 administrative law judge; or

6 (3) designate one (1) or more:

7 (A) attorneys licensed to practice law in Indiana; or

8 (B) persons who served as administrative law judges for a state
9 agency before January 1, 2014;

10 to act as an administrative law judge.

11 A person designated under subdivision (3) is not required to be an
12 employee of the agency. A designation under subdivision (2) or (3)
13 may be made in advance of the commencement of any particular
14 proceeding for a generally described class of proceedings or may be
15 made for a particular proceeding. A general designation may provide
16 procedures for the assignment of designated individuals to particular
17 proceedings.

18 (b) An agency may not knowingly assign an individual to serve
19 alone or with others as an administrative law judge who is subject to
20 disqualification under this chapter.

21 (c) If the judge believes that the judge's impartiality might
22 reasonably be questioned, or believes that the judge's personal bias,
23 prejudice, or knowledge of a disputed evidentiary fact might influence
24 the decision, an individual assigned to serve alone or with others as an
25 administrative law judge shall:

26 (1) withdraw as the administrative law judge; or

27 (2) inform the parties of the potential basis for disqualification;
28 place a brief statement of this basis on the record of the
29 proceeding; and allow the parties an opportunity to petition for
30 disqualification under subsection (d).

31 (d) Any party to a proceeding may petition for the disqualification
32 of an individual serving alone or with others as an administrative law
33 judge upon discovering facts establishing grounds for disqualification
34 under this chapter. The administrative law judge assigned to the
35 proceeding shall determine whether to grant the petition, stating facts
36 and reasons for the determination. If the administrative law judge
37 ruling on the disqualification issue is not the ultimate authority for the
38 agency, the party petitioning for disqualification may petition the
39 ultimate authority in writing for review of the ruling within ten (10)
40 days after notice of the ruling is served. The ultimate authority shall
41 conduct proceedings described by section 28 of this chapter to review
42 the petition and affirm, modify, or dissolve the ruling within thirty (30)



1 days after the petition is filed. A determination by the ultimate
 2 authority under this subsection is a final order subject to judicial review
 3 under IC 4-21.5-5.

4 (e) If a substitute is required for an administrative law judge who is
 5 disqualified or becomes unavailable for any other reason, the substitute
 6 must be appointed in accordance with subsection (a).

7 (f) Any action taken by a duly appointed substitute for a disqualified
 8 or unavailable administrative law judge is as effective as if taken by the
 9 latter.

10 (g) If there is a reasonable likelihood that the ultimate authority will
 11 be called upon to:

12 (1) review; or

13 (2) issue a final order with respect to;

14 a matter pending before or adjudicated by an administrative law judge;
 15 the provisions of section 11 of this chapter that apply to an
 16 administrative law judge or to a person communicating with an
 17 administrative law judge apply to a member of the ultimate authority
 18 and to a person communicating with a member of the ultimate
 19 authority.

20 SECTION 15. IC 4-21.5-3-10 IS REPEALED [EFFECTIVE JULY
 21 1, 2016]. Sec. 10: (a) Any individual serving or designated to serve
 22 alone or with others as an administrative law judge is subject to
 23 disqualification for:

24 (1) bias, prejudice, or interest in the outcome of a proceeding;

25 (2) failure to dispose of the subject of a proceeding in an orderly
 26 and reasonably prompt manner after a written request by a party;

27 (3) unless waived or extended with the written consent of all
 28 parties or for good cause shown, failure to issue an order not later
 29 than ninety (90) days after the latest of:

30 (A) the filing of a motion to dismiss or a motion for summary
 31 judgment under section 23 of this chapter that is filed after
 32 June 30, 2011;

33 (B) the conclusion of a hearing that begins after June 30, 2011;
 34 or

35 (C) the completion of any schedule set for briefing or for
 36 submittal of proposed findings of fact and conclusions of law
 37 for a disposition under clauses (A) or (B); or

38 (4) any cause for which a judge of a court may be disqualified.

39 Nothing in this subsection prohibits an individual who is an employee
 40 of an agency from serving as an administrative law judge.

41 (b) This subsection does not apply to a proceeding concerning a
 42 regulated occupation (as defined in IC 25-1-7-1), except for a



1 proceeding concerning a water well driller (as described in IC 25-39-3)
 2 or an out of state mobile health care entity regulated by the state
 3 department of health. An individual who is disqualified under
 4 subsection (a)(2) or (a)(3) shall provide the parties a list of at least
 5 three (3) special administrative law judges who meet the requirements
 6 of:

7 (1) IC 4-21.5-7-6, if the case is pending in the office of
 8 environmental adjudication;

9 (2) IC 14-10-2-2, if the case is pending before the division of
 10 hearings of the natural resources commission; or

11 (3) any other statute or rule governing qualification to serve an
 12 agency other than those described in subdivision (1) or (2):

13 Subject to subsection (c), the parties may agree to the selection of one
 14 (1) individual from the list:

15 (c) If the parties do not agree to the selection of an individual as
 16 provided in subsection (b) not later than ten (10) days after the parties
 17 are provided a list of judges under subsection (b), a special
 18 administrative law judge who meets the requirements of subsection (b)
 19 shall be selected under the procedure set forth in Trial Rule 79(D);
 20 79(E); or 79(F):

21 SECTION 16. IC 4-21.5-3-11 IS REPEALED [EFFECTIVE JULY
 22 1, 2016]. Sec. 11: (a) Except as provided in subsection (b) or unless
 23 required for the disposition of ex parte matters specifically authorized
 24 by statute, an administrative law judge serving in a proceeding may not
 25 communicate, directly or indirectly, regarding any issue in the
 26 proceeding while the proceeding is pending, with:

27 (1) any party;

28 (2) any individual who has a direct or indirect interest in the
 29 outcome of the proceeding;

30 (3) any individual who presided at a previous stage of the
 31 proceeding; or

32 (4) any individual who is prohibited from assisting the
 33 administrative law judge under section 13 of this chapter;

34 without notice and opportunity for all parties to participate in the
 35 communication:

36 (b) A member of a multimember panel of administrative law judges
 37 may communicate with other members of the panel regarding a matter
 38 pending before the panel; and any administrative law judge may
 39 receive aid from staff assistants. However, a staff assistant may not
 40 communicate to an administrative law judge any:

41 (1) ex parte communications of a type that the administrative law
 42 judge would be prohibited from receiving under subsection (a);



1 or

2 (2) information that would furnish, augment, diminish, or modify
3 the evidence in the record.

4 (c) Unless required for the disposition of ex parte matters
5 specifically authorized by statute, a person described by subsection
6 (a)(1), (a)(2), (a)(3), or (a)(4) may not communicate, directly or
7 indirectly, in connection with any issue in that proceeding while the
8 proceeding is pending, with any person serving as administrative law
9 judge without notice and opportunity for all parties to participate in the
10 communication.

11 (d) If, before serving as administrative law judge in a proceeding,
12 an individual receives an ex parte communication of a type that would
13 not properly be received while serving, the individual, promptly after
14 starting to serve, shall disclose the communication in the manner
15 prescribed in subsection (c).

16 (e) An administrative law judge who receives an ex parte
17 communication in violation of this section shall:

18 (1) place on the record of the pending matter all written
19 communications received, all written responses to the
20 communications, and a memorandum stating the substance of all
21 oral communications received, all responses made, and the
22 identity of each individual from whom the administrative law
23 judge received an ex parte communication; and

24 (2) advise all parties that these matters have been placed on the
25 record.

26 Any person described by subsection (a)(1), (a)(2), (a)(3), or (a)(4) shall
27 be allowed to rebut a charge of wrongful ex parte communication upon
28 requesting the opportunity for rebuttal within fifteen (15) days after
29 notice of the communication.

30 (f) If necessary to eliminate the effect of an ex parte communication
31 received in violation of this section, an administrative law judge who
32 receives the communication may be disqualified and the portions of the
33 record pertaining to the communication may be corrected, modified, or
34 preserved by protective order.

35 (g) A violation of this section is subject to the sanctions under
36 sections 36 and 37 of this chapter.

37 SECTION 17. IC 4-21.5-3-12 IS REPEALED [EFFECTIVE JULY
38 1, 2016]. Sec. 12. An administrative law judge who:

39 (1) comments publicly, except as to hearing schedules or
40 procedures, about pending or impending proceedings; or

41 (2) engages in financial or business dealings that tend to:

42 (A) reflect adversely on the administrative law judge's



1 impartiality;

2 (B) interfere with the proper performance of the administrative
3 law judge's duties;

4 (C) exploit the administrative law judge's position; or

5 (D) involve the administrative law judge in frequent financial
6 or business dealings with attorneys or other persons who are
7 likely to come before the administrative law judge;

8 is subject to disqualification. A violation of this section is subject to the
9 sanctions under sections 36 and 37 of this chapter.

10 SECTION 18. IC 4-21.5-3-13 IS REPEALED [EFFECTIVE JULY
11 1, 2016]. Sec. 13: (a) An individual who has served as investigator;
12 prosecutor; or advocate in a proceeding or in its preadjudicative stage
13 may not serve as an administrative law judge or assist or advise the
14 administrative law judge in the same proceeding.

15 (b) An individual who is subject to the authority; direction; or
16 discretion of an individual who has served as investigator; prosecutor;
17 or advocate in a proceeding or in its preadjudicative stage may not
18 serve as an administrative law judge or assist or advise the
19 administrative law judge in the same proceeding.

20 (c) An individual who has made a determination of probable cause
21 or other equivalent preliminary determination in a proceeding may
22 serve as an administrative law judge or assist or advise the
23 administrative law judge in the same proceeding; unless a party
24 demonstrates grounds for disqualification under section 10 of this
25 chapter.

26 (d) An individual may serve as an administrative law judge or a
27 person presiding under sections 28, 29, 30, and 31 of this chapter at
28 successive stages of the same proceeding; unless a party demonstrates
29 grounds for disqualification under section 10 of this chapter.

30 (e) A violation of this section is subject to the sanctions under
31 sections 36 and 37 of this chapter.

32 SECTION 19. IC 4-21.5-3-14 IS REPEALED [EFFECTIVE JULY
33 1, 2016]. Sec. 14: (a) An administrative law judge conducting a
34 proceeding shall keep a record of the administrative law judge's
35 proceedings under this article.

36 (b) If a motion is based on facts not otherwise appearing in the
37 record for the proceeding; the administrative law judge may hear the
38 matter on affidavits presented by the respective parties or the
39 administrative law judge may direct that the matter be heard wholly or
40 partly on oral testimony or depositions.

41 (c) At each stage of the proceeding; the agency or other person
42 requesting that an agency take action or asserting an affirmative



1 defense specified by law has the burden of persuasion and the burden
 2 of going forward with the proof of the request or affirmative defense.
 3 Before the hearing on which the party intends to assert it, a party shall,
 4 to the extent possible, disclose any affirmative defense specified by law
 5 on which the party intends to rely. If a prehearing conference is held in
 6 the proceeding, a party notified of the conference shall disclose the
 7 party's affirmative defense in the conference.

8 (d) The proceedings before an administrative law judge are de novo.

9 SECTION 20. IC 4-21.5-3-17 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 17. (a) The
 11 administrative ~~law judge, court~~, at appropriate stages of a proceeding,
 12 shall give all parties full opportunity to file pleadings, motions, and
 13 objections and submit offers of settlement.

14 (b) The administrative ~~law judge, court~~, at appropriate stages of a
 15 proceeding, may give all parties full opportunity to file briefs, proposed
 16 findings of fact, and proposed orders.

17 (c) A party shall serve copies of any filed item on all parties.

18 (d) The administrative ~~law judge court~~ shall serve copies of all
 19 notices, orders, and other papers generated by the administrative ~~law~~
 20 ~~judge court~~ on all parties. The administrative ~~law judge court~~ shall
 21 give notice of preliminary hearings, prehearing conferences, hearings,
 22 stays, and orders disposing of the proceeding to persons described by
 23 section 5(d) of this chapter.

24 SECTION 21. IC 4-21.5-3-18 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) The
 26 administrative ~~law judge court~~ for the hearing ~~subject to the agency's~~
 27 ~~rules~~, may, on the administrative ~~law judge's court's~~ own motion, and
 28 shall, on the motion of a party, conduct a prehearing conference. The
 29 administrative ~~law judge court~~ may deny a motion for a prehearing
 30 conference if the administrative ~~law judge court~~ has previously
 31 conducted a prehearing conference in the proceeding.

32 (b) This section and section 19 of this chapter apply if the
 33 conference is conducted.

34 (c) The administrative ~~law judge court~~ for the prehearing
 35 conference shall set the time and place of the conference and give
 36 reasonable written notice to the following:

37 (1) All parties.

38 (2) All persons who have filed written petitions to intervene in the
 39 matter.

40 (3) All persons entitled to notice under any law.

41 (d) The initial prehearing conference notice in a proceeding must
 42 include the following:



- 1 (1) The names and mailing addresses of all known parties and
 2 other persons to whom notice is being given by the administrative
 3 ~~law judge~~ **court**.
- 4 (2) The names and mailing addresses of all publications used to
 5 provide notice under this section.
- 6 (3) The name, official title, and mailing address of any counsel or
 7 employee who has been designated to appear for the agency and
 8 a telephone number through which the counsel or employee can
 9 be reached.
- 10 (4) The official file or other reference number, the name of the
 11 proceeding, and a general description of the subject matter.
- 12 (5) A statement of the time, place, and nature of the prehearing
 13 conference.
- 14 (6) A statement of the legal authority and jurisdiction under which
 15 the prehearing conference and the hearing are to be held.
- 16 (7) The ~~name, official title, and~~ mailing address of the
 17 administrative ~~law judge~~ **court** for the prehearing conference and
 18 a telephone number through which information concerning
 19 hearing schedules and procedures may be obtained.
- 20 (8) A statement that a party who fails to attend or participate in a
 21 prehearing conference, hearing, or other later stage of the
 22 proceeding may be held in default or have a proceeding dismissed
 23 under section 24 of this chapter.
- 24 (e) Any subsequent prehearing conference notice in the proceeding
 25 may omit the information described in ~~subsections~~ **subsection** (d)(1),
 26 (d)(2), (d)(3), (d)(6), and (d)(8).
- 27 (f) Any notice under this section may include any other matters that
 28 the administrative ~~law judge~~ **court** considers desirable to expedite the
 29 proceedings.
- 30 SECTION 22. IC 4-21.5-3-19 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. (a) This section and
 32 section 18 of this chapter apply to prehearing conferences.
- 33 (b) To expedite a decision on pending motions and other issues, the
 34 administrative ~~law judge~~ **court** may conduct all or part of the
 35 prehearing conference by telephone, television, or other electronic
 36 means if each participant in the conference has an opportunity:
 37 (1) to participate in;
 38 (2) to hear; and
 39 (3) if technically feasible, to see;
 40 the entire proceeding while it is taking place.
- 41 (c) The administrative ~~law judge~~ **court** shall conduct the prehearing
 42 conference, as may be appropriate, to deal with such matters as the



- 1 following:
- 2 (1) Resolution of the issues in the proceeding under section 23 of
- 3 this chapter.
- 4 (2) Exploration of settlement possibilities.
- 5 (3) Preparation of stipulations.
- 6 (4) Clarification of issues.
- 7 (5) Rulings on identity and limitation of the number of witnesses.
- 8 (6) Objections to proffers of evidence.
- 9 (7) A determination of the extent to which direct evidence,
- 10 rebuttal evidence, or cross-examination will be presented in
- 11 written form.
- 12 (8) The order of presentation of evidence and cross-examination.
- 13 (9) Rulings regarding issuance of subpoenas, discovery orders,
- 14 and protective orders.
- 15 (10) Such other matters as will promote the orderly and prompt
- 16 conduct of the hearing.
- 17 The administrative ~~law judge~~ **court** shall issue a prehearing order
- 18 incorporating the matters determined at the prehearing conference.
- 19 (d) If a prehearing conference is not held, the administrative ~~law~~
- 20 ~~judge~~ **court** for the hearing may issue a prehearing order, based on the
- 21 pleadings, to regulate the conduct of the proceedings.
- 22 SECTION 23. IC 4-21.5-3-20 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20. (a) The
- 24 administrative ~~law judge~~ **court** for the hearing shall set the time and
- 25 place of the hearing and give reasonable written notice to all parties
- 26 and to all persons who have filed written petitions to intervene in the
- 27 matter. Unless a shorter notice is required to comply with any law or is
- 28 stipulated by all parties and persons filing written requests for
- 29 intervention, an agency shall give at least five (5) days notice of the
- 30 hearing.
- 31 (b) The notice must include a copy of any prehearing order rendered
- 32 in the matter.
- 33 (c) To the extent not included in a prehearing order accompanying
- 34 it, the initial hearing notice in a proceeding must include the following:
- 35 (1) The names and mailing addresses of all parties and other
- 36 persons to whom notice is being given by the administrative ~~law~~
- 37 ~~judge.~~ **court.**
- 38 (2) The name, official title, and mailing address of any counsel or
- 39 employee who has been designated to appear for the agency and
- 40 a telephone number through which the counsel or employee can
- 41 be reached.
- 42 (3) The official file or other reference number, the name of the



1 proceeding, and a general description of the subject matter.

2 (4) A statement of the time, place, and nature of the hearing.

3 (5) A statement of the legal authority and jurisdiction under which
4 the hearing is to be held.

5 (6) The ~~name, official title, and~~ mailing address of the
6 administrative ~~law judge~~ **court** and a telephone number through
7 which information concerning hearing schedules and procedures
8 may be obtained.

9 (7) A statement of the issues involved and, to the extent known to
10 the administrative ~~law judge,~~ **court**, of the matters asserted by the
11 parties.

12 (8) A statement that a party who fails to attend or participate in a
13 prehearing conference, hearing, or other later stage of the
14 proceeding may be held in default or have a proceeding dismissed
15 under section 24 of this chapter.

16 (d) Subsequent hearing notices in the proceeding may omit the
17 information described in ~~subsections~~ **subsection** (c)(1), (c)(2), (c)(5),
18 and (c)(8).

19 (e) Any notice under this section may include any other matters the
20 administrative ~~law judge~~ **court** considers desirable to expedite the
21 proceedings.

22 (f) The administrative ~~law judge~~ **court** shall give notice to persons
23 other than parties and petitioners for intervention who are entitled to
24 notice under any law. Notice under this subsection may include all
25 types of information provided in subsections (a) through (e) or may
26 consist of a brief statement indicating:

27 (1) the subject matter, parties, time, place, and nature of the
28 hearing;

29 (2) the manner in which copies of the notice to the parties may be
30 inspected and copied;

31 ~~(3) the name of the administrative law judge;~~ and

32 ~~(4)~~ **(3)** a telephone number through which information concerning
33 proceeding hearing schedules and procedures may be obtained.

34 SECTION 24. IC 4-21.5-3-21 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 21. (a) Before the
36 beginning of the hearing on the subject of the proceeding, the
37 administrative ~~law judge~~ **court** shall grant a petition for intervention in
38 a proceeding and identify the petitioner in the record of the proceeding
39 as a party if:

40 (1) the petition:

41 (A) is submitted in writing to the administrative ~~law judge,~~
42 **court**, with copies mailed to all parties named in the record of



- 1 the proceeding; and
 2 (B) states facts demonstrating that a statute gives the petitioner
 3 an unconditional right to intervene in the proceeding; or
 4 (2) the petition:
 5 (A) is submitted in writing to the administrative ~~law judge,~~
 6 **court**, with copies mailed to all parties named in the record of
 7 the proceeding, at least three (3) days before the hearing; and
 8 (B) states facts demonstrating that the petitioner is aggrieved
 9 or adversely affected by the order or a statute gives the
 10 petitioner a conditional right to intervene in the proceeding.
 11 (b) The administrative ~~law judge,~~ **court**, at least twenty-four (24)
 12 hours before the beginning of the hearing, shall issue an order granting
 13 or denying each pending petition for intervention.
 14 (c) After the beginning of the hearing on the subject of the
 15 proceeding, but before the close of evidence in the hearing, anyone
 16 may be permitted to intervene in the proceeding if:
 17 (1) a statute confers a conditional right to intervene or an
 18 applicant's claim or defense and the main action have a question
 19 of law or fact in common; and
 20 (2) the administrative ~~law judge~~ **court** determines that the
 21 interests of justice and the orderly and prompt conduct of the
 22 proceedings will not be impaired by allowing the intervention.
 23 In exercising its discretion, the administrative ~~law judge~~ **court** shall
 24 consider whether the intervention will unduly delay or prejudice the
 25 adjudication of the legal interests of any of the parties.
 26 (d) An order granting or denying a petition for intervention must
 27 specify any condition and briefly state the reasons for the order. The
 28 administrative ~~law judge~~ **court** may modify the order at any time,
 29 stating the reasons for the modification. The administrative ~~law judge~~
 30 **court** shall promptly give notice of an order granting, denying, or
 31 modifying intervention to the petitioner for intervention and to all
 32 parties.
 33 SECTION 25. IC 4-21.5-3-22 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. (a) The
 35 administrative ~~law judge~~ **court** at the request of any party or an agency
 36 shall, and upon the administrative ~~law judge's~~ **court's** own motion may,
 37 issue:
 38 (1) subpoenas;
 39 (2) discovery orders; and
 40 (3) protective orders;
 41 in accordance with the rules of procedure governing discovery,
 42 depositions, and subpoenas in civil actions in the courts.



1 (b) The party seeking the order shall serve the order in accordance
 2 with these rules of procedure. If ordered by the administrative ~~law~~
 3 ~~judge, court~~, the sheriff in the county in which the order is to be served
 4 shall serve the subpoena, discovery order, or protective order.

5 (c) Subpoenas and orders issued under this section may be enforced
 6 under IC 4-21.5-6.

7 SECTION 26. IC 4-21.5-3-23, AS AMENDED BY P.L.32-2011,
 8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 23. (a) A party may, at any time after a matter is
 10 ~~assigned to an~~ **submitted to the** administrative ~~law judge, court~~, move
 11 for a summary judgment in the party's favor as to all or any part of the
 12 issues in a proceeding.

13 (b) Except as otherwise provided in this section, ~~an~~ **the**
 14 administrative ~~law judge court~~ shall consider a motion filed under
 15 subsection (a) as would a court that is considering a motion for
 16 summary judgment filed under Trial Rule 56 of the Indiana Rules of
 17 Trial Procedure.

18 (c) Service of the motion and any response to the motion, including
 19 supporting affidavits, shall be performed as provided in this article.

20 (d) ~~Sections Section 28 and 29~~ of this chapter ~~apply applies~~ to an
 21 order granting summary judgment that disposes of all issues in a
 22 proceeding.

23 SECTION 27. IC 4-21.5-3-24, AS AMENDED BY P.L.72-2014,
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 24. (a) At any stage of a proceeding, if a party
 26 fails to:

- 27 (1) satisfy the requirements of section 7(a) of this chapter;
- 28 (2) file a responsive pleading required by statute or rule;
- 29 (3) attend or participate in a prehearing conference, hearing, or
 30 other stage of the proceeding; or
- 31 (4) take action on a matter for a period of sixty (60) days, if the
 32 party is responsible for taking the action;

33 the administrative ~~law judge court~~ may serve upon all parties written
 34 notice of a proposed default or dismissal order, including a statement
 35 of the grounds.

36 (b) Within seven (7) days after service of a proposed default or
 37 dismissal order, the party against whom it was issued may file a written
 38 motion requesting that the proposed default order not be imposed and
 39 stating the grounds relied upon. During the time within which a party
 40 may file a written motion under this subsection, the administrative ~~law~~
 41 ~~judge court~~ may adjourn the proceedings or conduct them without the
 42 participation of the party against whom a proposed default order was



1 issued, having due regard for the interest of justice and the orderly and
2 prompt conduct of the proceedings.

3 (c) If the party has failed to file a written motion under subsection
4 (b), the administrative ~~law judge~~ **court** shall issue the default or
5 dismissal order. If the party has filed a written motion under subsection
6 (b), the administrative ~~law judge~~ **court** may either enter the order or
7 refuse to enter the order.

8 (d) After issuing a default order, the administrative ~~law judge~~ **court**
9 shall conduct any further proceedings necessary to complete the
10 proceeding without the participation of the party in default and shall
11 determine all issues in the adjudication, including those affecting the
12 defaulting party. The administrative ~~law judge~~ **court** may conduct
13 proceedings in accordance with section 23 of this chapter to resolve
14 any issue of fact.

15 SECTION 28. IC 4-21.5-3-25 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 25. (a) This section and
17 section 26 of this chapter govern the conduct of any hearing held by ~~an~~
18 **the administrative law judge court.**

19 (b) The administrative ~~law judge~~ **court** shall regulate the course of
20 the proceedings in conformity with any prehearing order and in an
21 informal manner without recourse to the technical, common law rules
22 of evidence applicable to civil actions in the courts.

23 (c) To the extent necessary for full disclosure of all relevant facts
24 and issues, the administrative ~~law judge~~ **court** shall afford to all parties
25 the opportunity to respond, present evidence and argument, conduct
26 cross-examination, and submit rebuttal evidence, except as restricted
27 by a limitation under subsection (d) or by the prehearing order.

28 (d) The administrative ~~law judge~~ **court** may, after a prehearing
29 order is issued under section 19 of this chapter, impose conditions upon
30 a party necessary to avoid unreasonably burdensome or repetitious
31 presentations by the party, such as the following:

32 (1) Limiting the party's participation to designated issues in which
33 the party has a particular interest demonstrated by the petition.

34 (2) Limiting the party's use of discovery, cross-examination, and
35 other procedures so as to promote the orderly, prompt, and just
36 conduct of the proceeding.

37 (3) Requiring two (2) or more parties to combine their
38 presentations of evidence and argument, cross-examination,
39 discovery, and other participation in the proceedings.

40 If a person is allowed to intervene in the proceeding after the
41 commencement of a hearing under this section, the administrative ~~law~~
42 **judge court** may prohibit the intervener from recalling any witness who



1 has been heard or reopening any matter that has been resolved, unless
 2 the intervener did not receive a notice required by this chapter or the
 3 intervener presents facts that demonstrate that fraud, perjury, or an
 4 abuse of discretion has occurred. Any proceedings conducted before
 5 the giving of a notice required by this chapter are voidable upon the
 6 motion of the party who failed to receive the notice.

7 (e) The administrative ~~law judge~~ **court** may administer oaths and
 8 affirmations and rule on any offer of proof or other motion.

9 (f) The administrative ~~law judge~~ **court** may give nonparties an
 10 opportunity to present oral or written statements. If the administrative
 11 ~~law judge~~ **court** proposes to consider a statement by a nonparty, the
 12 ~~judge~~ **court** shall give all parties an opportunity to challenge or rebut
 13 ~~it the statement~~ and, on motion of any party, the ~~judge~~ **court** shall
 14 require the statement to be given under oath or affirmation.

15 ~~(g) The administrative law judge shall have the hearing recorded at~~
 16 ~~the agency's expense. The agency is not required, at its expense, to~~
 17 ~~prepare a transcript, unless required to do so by law. Any party, at the~~
 18 ~~party's expense, may cause a reporter approved by the agency to~~
 19 ~~prepare a transcript from the agency's record; or cause additional~~
 20 ~~recordings to be made during the hearing if the making of the~~
 21 ~~additional recordings does not cause distraction or disruption.~~
 22 ~~Notwithstanding IC 5-14-3-8, an agency may charge a person who~~
 23 ~~requests that an agency provide a transcript (other than for judicial~~
 24 ~~review under IC 4-21.5-5-13) the reasonable costs of preparing the~~
 25 ~~transcript.~~

26 SECTION 29. IC 4-21.5-3-26 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 26. (a) This section and
 28 section 25 of this chapter govern the conduct of any hearing conducted
 29 by ~~an the administrative law judge.~~ **court**. Upon proper objection, the
 30 administrative ~~law judge~~ **court** shall exclude evidence that is
 31 irrelevant, immaterial, unduly repetitious, or excludable on
 32 constitutional or statutory grounds or on the basis of evidentiary
 33 privilege recognized in the courts. In the absence of proper objection,
 34 the administrative ~~law judge~~ **court** may exclude objectionable
 35 evidence. The administrative ~~law judge~~ **court** may admit hearsay
 36 evidence. If not objected to, the hearsay evidence may form the basis
 37 for an order. However, if the evidence is properly objected to and does
 38 not fall within a recognized exception to the hearsay rule, the resulting
 39 order may not be based solely upon the hearsay evidence.

40 (b) All testimony of parties and witnesses must be made under oath
 41 or affirmation.

42 (c) Statements presented by nonparties in accordance with section



- 1 25 of this chapter may be received as evidence.
- 2 (d) Any part of the evidence may be received in written form if
- 3 doing so will expedite the hearing without substantial prejudice to the
- 4 interests of any party.
- 5 (e) Documentary evidence may be received in the form of a copy or
- 6 excerpt. Upon request, parties shall be given an opportunity to compare
- 7 the copy with the original if available.
- 8 (f) Official notice may be taken of the following:
- 9 (1) Any fact that could be judicially noticed in the courts.
- 10 (2) The record of other proceedings before the agency.
- 11 (3) Technical or scientific matters within the agency's specialized
- 12 knowledge.
- 13 (4) Codes or standards that have been adopted by an agency of the
- 14 United States or this state.
- 15 (g) Parties must be:
- 16 (1) notified before or during the hearing, or before the issuance of
- 17 any order that is based in whole or in part on facts or material
- 18 noticed under subsection (f), of the specific facts or material
- 19 noticed, and the source of the facts or material noticed, including
- 20 any staff memoranda and data; and
- 21 (2) afforded an opportunity to contest and rebut the facts or
- 22 material noticed under subsection (f).
- 23 SECTION 30. IC 4-21.5-3-27 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 27. ~~(a)~~ If the
- 25 administrative law judge is the ultimate authority for the agency, the
- 26 ultimate authority's order disposing of a proceeding is a final order. If
- 27 the administrative law judge is not the ultimate authority, the
- 28 administrative law judge's order disposing of the proceeding becomes
- 29 a final order when affirmed under section 29 of this chapter. Regardless
- 30 of whether the order is final, it must comply with this section.
- 31 ~~(b)~~ **(a)** This subsection applies only to an order not subject to
- 32 subsection ~~(c)~~. **(b)**. The order must include, separately stated, findings
- 33 of fact for all aspects of the order, including the remedy prescribed and,
- 34 if applicable, the action taken on a petition for stay of effectiveness.
- 35 Findings of ultimate fact must be accompanied by a concise statement
- 36 of the underlying basic facts of record to support the findings. The
- 37 order must also include a statement of the available procedures and
- 38 time limit for seeking administrative review of the order (if
- 39 administrative review is available).
- 40 ~~(c)~~ **(b)** This subsection applies only to an order of the ultimate
- 41 authority entered under IC 13, IC 14, or IC 25. The order must include
- 42 separately stated findings of fact and, if a final order, conclusions of



1 law for all aspects of the order, including the remedy prescribed and,
 2 if applicable, the action taken on a petition for stay of effectiveness.
 3 Findings of ultimate fact must be accompanied by a concise statement
 4 of the underlying basic facts of record to support the findings.
 5 Conclusions of law must consider prior final orders (other than
 6 negotiated orders) of the ultimate authority under the same or similar
 7 circumstances if those prior final orders are raised on the record in
 8 writing by a party and must state the reasons for deviations from those
 9 prior orders. The order must also include a statement of the available
 10 procedures and time limit for seeking administrative review of the
 11 order (if administrative review is available).

12 ~~(d)~~ (c) Findings must be based exclusively upon the evidence of
 13 record in the proceeding and on matters officially noticed in that
 14 proceeding. Findings must be based upon the kind of evidence that is
 15 substantial and reliable. ~~The administrative law judge's experience,~~
 16 ~~technical competence, and specialized knowledge may be used in~~
 17 ~~evaluating evidence.~~

18 ~~(e)~~ A substitute administrative law judge may issue the order under
 19 this section upon the record that was generated by a previous
 20 administrative law judge.

21 ~~(f)~~ (d) The administrative law judge court may allow the parties a
 22 designated amount of time after conclusion of ~~the a~~ hearing **held by**
 23 **the court under this section** for the submission of proposed findings.

24 ~~(g)~~ (e) An order under this section shall be issued in writing within
 25 ninety (90) days after conclusion of the hearing or after submission of
 26 proposed findings in accordance with subsection ~~(f)~~, (d), unless this
 27 period is waived or extended with the written consent of all parties or
 28 for good cause shown.

29 ~~(h)~~ (f) The administrative law judge **ultimate authority** shall have
 30 copies of the order under this section delivered to each party. ~~and to the~~
 31 ~~ultimate authority for the agency (if it is not rendered by the ultimate~~
 32 ~~authority).~~

33 SECTION 31. IC 4-21.5-3-28 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 28. (a) This section
 35 applies to proceedings under sections ~~29~~, 30 and 31 of this chapter.

36 (b) The ultimate authority or its designee shall conduct proceedings
 37 to issue a final order. A designee may be selected in advance of the
 38 commencement of any particular proceeding for a generally described
 39 class of proceedings or may be selected for a particular proceeding. A
 40 general designation may provide procedures for the assignment of
 41 designated individuals to particular proceedings.

42 (c) Any individual serving alone or with others in a proceeding may



1 be disqualified. ~~for any of the reasons that an administrative law judge~~
 2 ~~may be disqualified. The procedures in section 9 of this chapter apply~~
 3 ~~to the disqualification and substitution of the individual.~~

4 (d) Motions and petitions submitted by a party to the ultimate
 5 authority shall be served on each party to the proceeding and to any
 6 person described by section 5(d) of this chapter.

7 (e) In the conduct of its proceedings, the ultimate authority or its
 8 designee shall afford each party an opportunity to present briefs. The
 9 ultimate authority or its designee may:

- 10 (1) afford each party an opportunity to present oral argument;
- 11 (2) have a transcript prepared, at the agency's expense, of any
- 12 portion of the record of a proceeding that the ultimate authority or
- 13 its designee considers necessary;
- 14 (3) exercise the powers of ~~an the~~ administrative law judge court
- 15 to hear additional evidence under sections 25 and 26 of this
- 16 chapter; or
- 17 (4) allow nonparties to participate in a proceeding in accordance
- 18 with section 25 of this chapter.

19 Sections 15 and 16 of this chapter concerning representation and
 20 interpreters apply to the proceedings of the ultimate authority or its
 21 designee.

22 (f) Notices and orders of the ultimate authority or its designee shall
 23 be served on all parties and all other persons who have requested notice
 24 under section 5 of this chapter.

25 (g) The final order of the ultimate authority or its designee must:

- 26 (1) identify any differences between the final order and the
- 27 nonfinal order issued by the administrative law judge court under
- 28 section 27 of this chapter;
- 29 (2) include findings of fact meeting the standards of section 27 of
- 30 this chapter or incorporate the findings of fact in the
- 31 administrative law judge's court's order by express reference to
- 32 the order; and
- 33 (3) briefly explain the available procedures and time limit for
- 34 seeking administrative review of the final order by another agency
- 35 under section 30 of this chapter (if any is available).

36 SECTION 32. IC 4-21.5-3-29 IS REPEALED [EFFECTIVE JULY
 37 1, 2016]. ~~Sec. 29: (a) This section does not apply if the administrative~~
 38 ~~law judge issuing an order under section 27 of this chapter is the~~
 39 ~~ultimate authority for the agency.~~

40 (b) ~~After an administrative law judge issues an order under section~~
 41 ~~27 of this chapter, the ultimate authority or its designee shall issue a~~
 42 ~~final order.~~



- 1 (1) affirming;
 2 (2) modifying; or
 3 (3) dissolving;

4 the administrative law judge's order. The ultimate authority or its
 5 designee may remand the matter, with or without instructions, to an
 6 administrative law judge for further proceedings:

7 (c) In the absence of an objection or notice under subsection (d) or
 8 (e), the ultimate authority or its designee shall affirm the order:

9 (d) To preserve an objection to an order of an administrative law
 10 judge for judicial review, a party must not be in default under this
 11 chapter and must object to the order in a writing that:

- 12 (1) identifies the basis of the objection with reasonable
 13 particularity; and
 14 (2) is filed with the ultimate authority responsible for reviewing
 15 the order within fifteen (15) days (or any longer period set by
 16 statute) after the order is served on the petitioner:

17 (e) Without an objection under subsection (d), the ultimate authority
 18 or its designee may serve written notice of its intent to review any issue
 19 related to the order. The notice shall be served on all parties and all
 20 other persons described by section 5(d) of this chapter. The notice must
 21 identify the issues that the ultimate authority or its designee intends to
 22 review:

23 (f) A final order disposing of a proceeding or an order remanding an
 24 order to an administrative law judge for further proceedings shall be
 25 issued within sixty (60) days after the latter of:

- 26 (1) the date that the order was issued under section 27 of this
 27 chapter;
 28 (2) the receipt of briefs; or
 29 (3) the close of oral argument;

30 unless the period is waived or extended with the written consent of all
 31 parties or for good cause shown:

32 (g) After remand of an order under this section to an administrative
 33 law judge, the judge's order is also subject to review under this section:

34 SECTION 33. IC 4-21.5-3-30 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 30. If, under a statute,
 36 an agency may review the final order of another agency, the review
 37 shall be treated as if it was a continuous proceeding before a single
 38 agency. For the purposes of this review and the application of section
 39 3 of this chapter concerning the effectiveness of an order, a final order
 40 of the first agency shall be treated as a nonfinal order of an
 41 administrative law judge, and the second agency shall review the order
 42 under section 29 of this chapter. To preserve an issue for judicial



1 review; a party must comply with section 29(d) of this chapter before
 2 the second agency. The ultimate authority for the second agency or its
 3 designee may conduct proceedings under section 31 of this chapter.

4 SECTION 34. IC 4-21.5-3-31 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 31. (a) An agency has
 6 jurisdiction to modify a final order under this section before the earlier
 7 of the following:

8 (1) Thirty (30) days after the agency has served the final order
 9 under section 27 ~~29~~, or 30 of this chapter.

10 (2) Another agency assumes jurisdiction over the final order
 11 under section 30 of this chapter.

12 (3) A court assumes jurisdiction over the final order under
 13 IC 4-21.5-5.

14 (b) A party may petition the ultimate authority for an agency for a
 15 stay of effectiveness of a final order. The ultimate authority or its
 16 designee may, before or after the order becomes effective, stay the final
 17 order in whole or in part.

18 (c) A party may petition the ultimate authority for an agency for a
 19 rehearing of a final order. The ultimate authority or its designee may
 20 grant a petition for rehearing only if the petitioning party demonstrates
 21 that:

22 (1) the party is not in default under this chapter;

23 (2) newly discovered material evidence exists; and

24 (3) the evidence could not, by due diligence, have been
 25 discovered and produced at the hearing in the proceeding.

26 The rehearing may be limited to the issues directly affected by the
 27 newly discovered evidence. ~~If the rehearing is conducted by a person
 28 other than the ultimate authority, section 29 of this chapter applies to
 29 review of the order resulting from the rehearing.~~

30 (d) Clerical mistakes and other errors resulting from oversight or
 31 omission in a final order or other part of the record of a proceeding may
 32 be corrected by an ultimate authority or its designee on the motion of
 33 any party or on the motion of the ultimate authority or its designee.

34 (e) An action of a petitioning party or an agency under this section
 35 neither tolls the period in which a party may object to a second agency
 36 under section 30 of this chapter nor tolls the period in which a party
 37 may petition for judicial review under IC 4-21.5-5. However, if a
 38 rehearing is granted under subsection (c), these periods are tolled and
 39 a new period begins on the date that a new final order is served.

40 SECTION 35. IC 4-21.5-3-33 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 33. (a) An agency shall
 42 maintain an official record of each proceeding under this chapter.



1 (b) The agency record of the proceeding consists only of the
2 following:

- 3 (1) Notices of all proceedings.
4 (2) Any prehearing order.
5 (3) Any motions, pleadings, briefs, petitions, requests, and
6 intermediate rulings.
7 (4) Evidence received or considered.
8 (5) A statement of matters officially noticed.
9 (6) Proffers of proof and objections and rulings on them.
10 (7) Proposed findings, requested orders, and exceptions.
11 (8) The record prepared for the administrative ~~law judge court~~
12 for the ultimate authority or its designee under sections 28
13 through 31 of this chapter, at a hearing, and any transcript of the
14 record considered before final disposition of the proceeding.
15 (9) Any final order, nonfinal order, or order on rehearing.
16 (10) Staff memoranda or data submitted to the administrative ~~law~~
17 ~~judge court~~ or a person presiding in a proceeding under sections
18 28 through 31 of this chapter.
19 (11) Matters placed on the record after an ex parte
20 communication.

21 (c) Except to the extent that a statute provides otherwise, the agency
22 record described by subsection (b) constitutes the exclusive basis for
23 agency action in proceedings under this chapter. ~~and for judicial review~~
24 ~~of a proceeding under this chapter.~~

25 SECTION 36. IC 4-21.5-3-34, AS AMENDED BY P.L.32-2011,
26 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2016]: Sec. 34. (a) An agency is encouraged to develop
28 informal procedures that are consistent with this article and make
29 unnecessary more elaborate proceedings under this article.

30 (b) An agency may adopt rules, under IC 4-22-2, setting specific
31 procedures to facilitate informal settlement of matters. The procedures
32 must be consistent with this article.

33 (c) This section does not require any person to settle a matter under
34 the agency's informal procedures.

35 (d) This subsection does not apply to a proceeding before the state
36 ethics commission (created by IC 4-2-6-2) or a proceeding concerning
37 a regulated occupation (as defined in IC 25-1-7-1), except for a
38 proceeding concerning a water well driller (as described in IC 25-39-3)
39 or an out of state mobile health care entity regulated by the state
40 department of health. When a matter is settled without the need for
41 more elaborate proceedings under this section, the ultimate authority
42 or its designee shall issue the order agreed to by the parties as a final



1 order under this article.

2 (e) When the final order referred to in subsection (d) involves the
3 modification of a permit issued under IC 13, ~~the administrative law~~
4 ~~judge:~~

5 ~~(1) shall remand the permit to the issuing agency with instructions~~
6 ~~to modify the permit in accordance with the final order; and~~

7 ~~(2) retains jurisdiction over any appeals of the modified permit.~~
8 only those terms of the permit that are the subject of the final order
9 shall be modified and subject to public notice and comment.

10 (f) Any petition for administrative review under this chapter
11 concerning permit modification under subsection (e) is limited to only
12 those terms of the permit modified in accordance with the final order
13 issued under subsection (d).

14 SECTION 37. IC 4-21.5-3-36 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 36. An individual who:

16 (1) is serving alone or with others ~~as an administrative law judge~~
17 ~~or~~ as a person presiding in a proceeding under sections 28 through
18 31 of this chapter; and

19 (2) knowingly or intentionally violates section ~~11, 12, or~~ 13 of this
20 chapter;

21 commits a Class A misdemeanor.

22 SECTION 38. IC 4-21.5-3-37 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 37. A person who:

24 (1) aids, induces, or causes an individual serving alone or with
25 others ~~as an administrative law judge or~~ as a person presiding in
26 a proceeding under sections 28 through 31 of this chapter to
27 violate section ~~11, 12, or~~ 13 of this chapter; and

28 (2) acts with the intent to:

29 (A) have the individual described in subdivision (1)
30 disqualified from serving in a proceeding; or

31 (B) influence the individual described in subdivision (1) with
32 respect to any issue in a proceeding;

33 commits a Class A misdemeanor.

34 SECTION 39. IC 4-21.5-3.5-5 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) If a proceeding
36 is of a type that has been identified as appropriate for alternative
37 dispute resolution under section 2 of this chapter, the administrative
38 ~~law judge assigned to the proceeding court~~ may, on the administrative
39 ~~law judge's court's~~ own motion or upon motion of any party, select the
40 proceeding for mediation.

41 (b) Not more than fifteen (15) days after an order of selection for
42 mediation, a party may object by filing a written objection specifying



1 the grounds. The administrative ~~law judge~~ **court** shall promptly
 2 consider an objection to mediation and any response to the objection
 3 and shall reconsider whether the proceeding is appropriate for
 4 mediation.

5 (c) In considering an order for mediation under this section, the
 6 administrative ~~law judge~~ **court** shall consider:

7 (1) the willingness of the parties to mutually resolve their dispute;

8 (2) the ability of the parties to participate in the mediation
 9 process;

10 (3) the need for discovery and the extent to which it has been
 11 conducted; and

12 (4) any other factors that affect the potential for fair resolution of
 13 the dispute through the mediation process.

14 SECTION 40. IC 4-21.5-3.5-6 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) If a proceeding
 16 is conducted by mediation, the administrative ~~law judge~~ **court** assigned
 17 to the proceeding shall within fifteen (15) days after the date of the
 18 order for mediation make available to the parties, at no cost, a mediator
 19 who is qualified under section 8 of this chapter, or the parties may elect
 20 to use, at their own cost, an outside mediator who is:

21 (1) qualified under section 8 of this chapter; and

22 (2) approved by the administrative ~~law judge assigned to the~~
 23 ~~proceeding:~~ **court.**

24 (b) If a mediator is not selected by agreement or choice under
 25 subsection (a), the administrative ~~law judge assigned to the proceeding~~
 26 **court** shall designate three (3) mediators from the approved list of
 27 mediators described in subsection 7(d) and allow fifteen (15) days for
 28 alternate striking by each side. The party initiating the proceeding shall
 29 strike first. The mediator remaining after the striking process is the
 30 mediator.

31 SECTION 41. IC 4-21.5-3.5-7 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) A person, other
 33 than agency personnel, who wishes to serve as a mediator under this
 34 chapter shall file an application with the ultimate authority or its
 35 designee describing the type of proceeding in which the person desires
 36 to serve as a mediator and setting forth qualifications as required by
 37 section 8 of this chapter and the rules adopted under this chapter.

38 (b) A mediator must reapply if required by the rules.

39 (c) The administrative ~~law judge assigned to a proceeding~~ **court**
 40 may allow mediation teams and co-mediators.

41 (d) The ultimate authority or its designee that uses mediation for
 42 dispute resolution shall maintain a list of approved mediators and the



1 types of proceedings in which each mediator is authorized to serve. A
 2 mediator may be removed from the approved list for good cause, after
 3 a hearing.

4 SECTION 42. IC 4-21.5-3.5-8, AS AMENDED BY P.L.114-2008,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 8. (a) Except as provided in subsection (b), a
 7 person who applies to be a mediator under this chapter must be
 8 qualified as a mediator under Rule 2.5 of the Indiana Supreme Court
 9 Rules for Alternative Dispute Resolution.

10 (b) Subject to approval of the administrative ~~law judge, court~~, the
 11 parties may agree on any person to serve as a mediator.

12 SECTION 43. IC 4-21.5-3.5-11 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. At any time, a party
 14 to a proceeding may request that the administrative ~~law judge court~~
 15 replace the mediator of the proceeding for good cause.

16 SECTION 44. IC 4-21.5-3.5-12 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. If a mediator
 18 chooses not to serve or the administrative ~~law judge court~~ decides to
 19 replace a mediator, the mediator selection process described in this
 20 chapter shall be repeated.

21 SECTION 45. IC 4-21.5-3.5-14 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) If the parties to
 23 a proceeding elect to use an outside mediator, the costs of mediation
 24 must be paid as agreed by the parties. If there is no agreement of the
 25 parties, the administrative ~~law judge assigned to the proceeding court~~
 26 shall determine the mediation costs, if necessary, and equitably divide
 27 the mediation costs among the parties.

28 (b) To make the determination required by subsection (a), the
 29 administrative ~~law judge court~~ shall consider the following:

- 30 (1) The complexity of the litigation.
- 31 (2) The skill levels needed to mediate the proceeding.
- 32 (3) The ability of a party to pay.

33 (c) Mediation costs must be paid not more than thirty (30) days after
 34 the mediation is completed unless otherwise agreed among the
 35 mediator and the parties.

36 SECTION 46. IC 4-21.5-3.5-15 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. If a proceeding is
 38 selected for mediation, the administrative ~~law judge assigned to the~~
 39 ~~proceeding court~~ shall continue the proceeding until the mediation is
 40 completed.

41 SECTION 47. IC 4-21.5-3.5-17 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 17. (a) The parties and



1 their attorneys, if any, must be present at any mediation session unless
 2 otherwise agreed. A mediator may allow nonparties to the dispute to be
 3 present at a mediation session if the parties agree.

4 (b) All parties, attorneys with settlement authority, representatives
 5 with settlement authority, and necessary individuals must be present at
 6 each mediation conference to facilitate settlement of a dispute, unless
 7 excused by the administrative ~~law judge~~ **court**.

8 (c) Mediation sessions are not open to the public.

9 SECTION 48. IC 4-21.5-3.5-20 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20. (a) As soon after
 11 mediation as practicable, the mediator shall report to the administrative
 12 ~~law judge~~ **court** that the mediation process has been completed,
 13 terminated, or extended.

14 (b) The mediator shall terminate mediation whenever:

15 (1) the mediator believes that continuation of the process would
 16 harm or prejudice one (1) or more of the parties; or

17 (2) the ability or willingness of any party to participate
 18 meaningfully in mediation is lacking to the extent that a
 19 reasonable agreement is unlikely.

20 (c) After at least two (2) mediation sessions have been completed,
 21 any party may terminate mediation. The mediator may not state the
 22 reason for termination except when the termination is due to conflict
 23 of interest or bias on the part of the mediator, in which case another
 24 mediator may be assigned to the proceeding by the administrative ~~law~~
 25 ~~judge for the proceeding~~ **court**.

26 SECTION 49. IC 4-21.5-3.5-21 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 21. (a) If the parties do
 28 not reach an agreement on any matter as a result of mediation, the
 29 mediator shall report the lack of an agreement without comment or
 30 recommendation to the administrative ~~law judge assigned to the~~
 31 ~~proceeding~~ **court**. With the consent of the parties, the mediator's report
 32 may also identify any pending motions or outstanding legal issues,
 33 discovery process, or other action by any party that, if resolved or
 34 completed, would facilitate the possibility of a settlement.

35 (b) An agreement as a result of mediation must be in writing and
 36 signed by the parties. The agreement must be filed with the
 37 administrative ~~law judge assigned to the proceeding~~ **court**. If the
 38 agreement is complete on all issues, it must be accompanied by a joint
 39 stipulation of disposition. ~~Upon approval of a joint stipulation of~~
 40 ~~disposition by the administrative law judge, it has the same force and~~
 41 ~~effect as an agreed order approved by an administrative law judge from~~
 42 ~~the agency involved.~~



1 (c) An approved joint stipulation of disposition under this chapter
2 is considered a contract between the parties.

3 SECTION 50. IC 4-21.5-3.5-25 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 25. Whenever possible,
5 parties to a proceeding are encouraged to limit discovery to the
6 development of information necessary to facilitate the mediation
7 process. By agreement of the parties, or as ordered by the
8 administrative ~~law judge, court,~~ discovery may be deferred during
9 mediation.

10 SECTION 51. IC 4-21.5-4-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The agency shall
12 issue the order under this chapter, ~~by, one (1) of the following~~
13 ~~procedures:~~

14 (1) except as provided in IC 25-1-9-10, without notice or an
15 evidentiary proceeding, by any authorized individual or panel of
16 individuals.

17 (2) ~~After a hearing conducted by an administrative law judge.~~

18 (b) The resulting order must include a brief statement of the facts
19 and the law that justifies the agency's decision to take the specific
20 action under this chapter.

21 SECTION 52. IC 4-21.5-4-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. Upon a request by
23 a party for a hearing on an order rendered under section ~~2(a)(1) 2~~
24 of this chapter, the agency shall, as quickly as is practicable, set the matter
25 for an evidentiary hearing. ~~An~~ **The administrative law judge court**
26 shall determine whether the order under this chapter should be voided,
27 terminated, modified, stayed, or continued.

28 SECTION 53. IC 4-21.5-6-2 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) This section
30 applies only to the enforcement of a subpoena, discovery order, or
31 protective order **that:**

32 **(1) was issued by an agency under this article; and**

33 **(2) was not issued by the administrative court.**

34 (b) Any party to a proceeding before an agency who has obtained an
35 order ~~from issued by an administrative law judge agency under this~~
36 **article** may apply for a court order in a ~~circuit or superior the~~
37 **administrative** court to enforce the subpoena or order issued by an
38 agency by a verified petition for civil enforcement. Notice of an
39 application under this section shall be given:

40 (1) ~~to the administrative law judge issuing the order;~~

41 (2) **(1)** to the attorney general; and

42 (3) **(2)** to each party to the proceeding before the agency;



1 by personal service or by the United States mail at the time the
2 application is filed.

3 SECTION 54. IC 4-21.5-6-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section does
5 not apply to the enforcement of a subpoena, discovery order, or
6 protective order issued by an agency under this article.

7 (b) Nothing in this chapter limits or precludes civil action under
8 IC 13-30-1.

9 (c) Any party to a proceeding concerning an agency's order may file
10 a petition for civil enforcement of that order **with the administrative**
11 **court.**

12 (d) The action may not be commenced under this section if:

13 (1) less than sixty (60) days has elapsed since the petitioner gave
14 notice of the alleged violation and of the petitioner's intent to seek
15 civil enforcement to the head of the agency concerned, to the
16 attorney general, and to each alleged violator against whom the
17 petitioner seeks civil enforcement;

18 (2) the agency has filed and is diligently prosecuting a petition for
19 civil enforcement of the same order against the same defendant;
20 or

21 (3) a petition for review of the same order has been filed and is
22 pending in court.

23 (e) The petition under this section must name as defendants each
24 alleged violator against whom the petitioner seeks civil enforcement.

25 (f) The agency whose order is sought to be enforced is not a party
26 to an action under this section unless the agency moves to intervene.
27 The court shall grant an agency's motion to intervene and shall allow
28 the agency to intervene as a plaintiff or defendant.

29 (g) The agency whose order is sought to be enforced under this
30 section may move to dismiss on the grounds that the petition fails to
31 qualify under this section or that enforcement would be contrary to the
32 policy of the agency. The court shall grant the motion to dismiss unless
33 the petitioner demonstrates that:

34 (1) the petition qualifies under this section; and

35 (2) the agency's failure to enforce its order is based on an exercise
36 of discretion that is improper on one (1) or more of the grounds
37 provided in IC 4-21.5-5-14.

38 (h) Except to the extent expressly authorized by law, a petition for
39 civil enforcement filed under this section may not request, and the
40 court may not grant, any monetary payment apart from taxable costs.

41 SECTION 55. IC 4-21.5-6-5 IS REPEALED [EFFECTIVE JULY
42 1, 2016]. Sec. 5: ~~Venue is determined in accordance with the rules~~



1 ~~governing civil actions in the courts:~~

2 SECTION 56. IC 4-21.5-6-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. Upon a showing that
4 a person has violated an order issued under this article, the
5 **administrative** court may grant:

- 6 (1) an injunction requested by any petitioner without bond;
7 (2) a restraining order or any appropriate relief other than an
8 injunction requested by a petitioner under section 1 of this chapter
9 without bond;
10 (3) a subpoena, discovery order, or protective order requested
11 under section 2 of this chapter without a bond; or
12 (4) a restraining order or any appropriate relief other than an
13 injunction requested by a petitioner under section 3 of this chapter
14 with the bond specified by the **administrative** court.

15 SECTION 57. IC 4-21.5-6-7 IS REPEALED [EFFECTIVE JULY
16 1, 2016]. ~~Sec. 7. Decisions on petitions for civil enforcement are~~
17 ~~appealable in accordance with the rules governing civil appeals from~~
18 ~~the courts.~~

19 SECTION 58. IC 4-21.5-7 IS REPEALED [EFFECTIVE JULY 1,
20 2016]. (Environmental Adjudication).

21 SECTION 59. IC 4-33-3-23 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 23. (a) A commission
23 member ~~or an administrative law judge appointed by the commission~~
24 may do the following:

- 25 (1) Conduct a hearing authorized under this article.
26 (2) Recommend findings of fact and decisions to the commission.
27 (b) The commission member ~~or administrative law judge~~ conducting
28 a hearing has all the powers and rights granted to the commission. A
29 hearing under this article shall be conducted under IC 4-21.5.

30 (c) When conducting a public hearing, the commission shall not
31 limit the number of speakers who may testify. However, the
32 commission may set reasonable time limits on the length of an
33 individual's testimony or the total amount of time allotted to proponents
34 and opponents of an issue before the commission.

35 SECTION 60. IC 4-33-11-2, AS AMENDED BY P.L.255-2015,
36 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2016]: Sec. 2. An appeal of a final rule or order of the
38 commission may be commenced under IC 4-21.5 in the ~~circuit court of~~
39 ~~the county containing the dock or site of the riverboat.~~ **administrative**
40 **court established under IC 33-26.5.**

41 SECTION 61. IC 4-33-19-4, AS ADDED BY P.L.227-2007,
42 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2016]: Sec. 4. The commission shall hire ~~an administrative~~
 2 ~~law judge~~, attorneys and other personnel necessary to carry out the
 3 division's duties under this chapter.

4 SECTION 62. IC 4-33-19-8, AS ADDED BY P.L.227-2007,
 5 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 8. (a) A memorandum of understanding required
 7 by section 7 of this chapter must describe the responsibilities of each
 8 participating agency in coordinating the agencies' administrative
 9 enforcement actions with respect to suspected violations of
 10 IC 35-45-5-3, IC 35-45-5-3.5, and IC 35-45-5-4.

11 (b) Each party to the memorandum of understanding required by
 12 section 7 of this chapter must agree to permit the license revocation
 13 actions subject to this chapter to be heard by ~~an administrative law~~
 14 ~~judge employed by the division:~~ **the administrative court established**
 15 **under IC 33-26.5.**

16 (c) A memorandum of understanding required by section 7 of this
 17 chapter must set forth the administrative procedures applicable to each
 18 revocation action conducted under this chapter.

19 SECTION 63. IC 4-33-22-48, AS ADDED BY P.L.113-2010,
 20 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 48. A licensee who has been subjected to
 22 disciplinary sanctions may be required by the commission to pay the
 23 costs of the proceeding. The licensee's ability to pay shall be
 24 considered when costs are assessed. If the licensee fails to pay the
 25 costs, a suspension may not be imposed solely upon the licensee's
 26 inability to pay the amount assessed. These costs are limited to costs
 27 for the following:

- 28 (1) Court reporters.
- 29 (2) Transcripts.
- 30 (3) Certification of documents.
- 31 (4) Photo duplication.
- 32 (5) Witness attendance and mileage fees.
- 33 (6) Postage.
- 34 (7) Expert witnesses.
- 35 (8) Depositions.
- 36 (9) Notarizations.
- 37 ~~(10) Administrative law judges.~~

38 SECTION 64. IC 5-2-1-12.5, AS ADDED BY P.L.52-2005,
 39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2016]: Sec. 12.5. (a) The board may revoke a diploma,
 41 certificate, badge, or other document showing compliance and
 42 qualification issued by the board for any of the following reasons:



- 1 (1) The officer has been convicted of:
2 (A) a felony; or
3 (B) two (2) or more misdemeanors that would cause a
4 reasonable person to believe that the officer is potentially
5 dangerous or violent or has a propensity to violate the law.
6 (2) The officer has been found not guilty of a felony by reason of
7 mental disease or defect.
8 (3) The officer's diploma, certificate, badge, or other document
9 showing compliance and qualification was issued in error or was
10 issued on the basis of information later determined to be false.
11 (b) A person who knows of cause for the revocation of an officer's
12 diploma, certificate, badge, or other document showing compliance and
13 qualification shall inform the officer's hiring or appointing authority or
14 the board. A person who makes a good faith report of cause for
15 revocation of an officer's diploma, certificate, badge, or other document
16 showing compliance and qualification is immune from civil liability.
17 (c) If the chief executive officer receives a report of cause for
18 revocation concerning an officer within the chief executive officer's
19 agency, the chief executive officer shall:
20 (1) cause the internal affairs division (or a similar unit) of the
21 agency to investigate the report without unnecessary delay; or
22 (2) request that the investigation be conducted by a law
23 enforcement agency other than the law enforcement agency to
24 which the subject of the investigation belongs.
25 (d) If a hiring or appointing authority receives a report of cause for
26 revocation concerning the chief executive officer, the hiring or
27 appointing authority shall cause an appropriate investigative agency to
28 investigate without unnecessary delay.
29 (e) If the board receives a report or otherwise learns of cause for
30 revocation concerning a law enforcement officer or chief executive
31 officer, the board shall consider the report and direct the executive
32 director to notify the subject officer's hiring or appointing authority
33 about the report and request an investigation. The hiring or appointing
34 authority shall cause an investigation to be conducted by an appropriate
35 investigative agency without unnecessary delay.
36 (f) When a hiring or appointing authority completes an investigation
37 of cause for revocation, the hiring or appointing authority shall forward
38 a complete report of its investigation, findings, and recommendations,
39 if any, to the board. The hiring or appointing authority shall also
40 forward to the board a description of any administrative or disciplinary
41 action taken as a result of the investigation not later than sixty (60)
42 days after the hiring or appointing authority takes administrative or



1 disciplinary action.

2 (g) ~~Except as provided in subsection (h);~~ If the board receives the
3 results of an investigation described in subsection (f), the board shall
4 conduct a hearing on the report, considering the report, the
5 recommendations, and any additional information. The board shall
6 provide the officer who is the subject of the report with notice and an
7 opportunity to be heard. The board may appoint the executive director
8 or another qualified person to present the report and the results of the
9 investigation to the board. In determining whether to revoke the subject
10 officer's diploma, certificate, badge, or other document showing
11 compliance and qualification, the board shall consider the opinion and
12 testimony of the hiring or appointing authority. If the board determines
13 that cause for revocation exists, the board may revoke the subject
14 officer's diploma, certificate, badge, or other document showing
15 compliance and qualification. The board shall send notice of revocation
16 by certified mail to the subject officer's hiring or appointing authority.
17 The subject officer may pursue judicial review of the board's action
18 under IC 4-21.5-5-13.

19 ~~(h) When the board receives the results of an investigation described~~
20 ~~in subsection (f), the board may, instead of conducting a hearing under~~
21 ~~subsection (g), direct the executive director or another qualified person~~
22 ~~to serve as an administrative law judge to conduct the hearing~~
23 ~~described in subsection (g). If the administrative law judge determines~~
24 ~~that cause for revocation exists, the administrative law judge shall~~
25 ~~revoke the subject officer's diploma, certificate, badge, or other~~
26 ~~document showing compliance and qualification and notify the subject~~
27 ~~officer by certified mail of the decision, with notice of the subject~~
28 ~~officer's right to appeal to the board not later than fifteen (15) days after~~
29 ~~receipt of the notice. An appeal to the board must be in writing and~~
30 ~~may be decided by the board without a hearing. The board shall notify~~
31 ~~the subject officer of the board's appellate decision under this~~
32 ~~subsection by certified mail. The subject officer may pursue judicial~~
33 ~~review of the board's action under IC 4-21.5-5-13.~~

34 (i) ~~(h)~~ An officer whose diploma, certificate, badge, or other
35 document showing compliance and qualification has been revoked may
36 apply to the board for reinstatement. The application for reinstatement:

37 (1) must be in writing; and

38 (2) must show:

39 (A) that the cause for revocation no longer exists legally; or

40 (B) that reinstatement is otherwise appropriate and that the
41 applicant poses no danger to the public and can perform as a
42 law enforcement officer according to the board's standards.



1 The board may direct the executive director to investigate the
 2 application for reinstatement and make a report to the board. The board
 3 shall consider the application and notify the applicant by certified mail
 4 of the board's decision.

5 SECTION 65. IC 6-1.1-4-31.7, AS AMENDED BY P.L.146-2008,
 6 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2016]: Sec. 31.7. (a) As used in this section, "special master"
 8 refers to a person designated by the Indiana board under subsection (e).

9 (b) The notice of assessment or reassessment under section 31.5(g)
 10 of this chapter is subject to appeal by the taxpayer to the Indiana board.
 11 The procedures and time limitations that apply to an appeal to the
 12 Indiana board of a determination of the department of local government
 13 finance do not apply to an appeal under this subsection. The Indiana
 14 board may establish applicable procedures and time limitations under
 15 subsection (l).

16 (c) In order to appeal under subsection (b), the taxpayer must:

17 (1) participate in the informal hearing process under section 31.6
 18 of this chapter;

19 (2) except as provided in section 31.6(i) of this chapter, receive
 20 a notice under section 31.6(g) of this chapter; and

21 (3) file a petition for review with the appropriate county assessor
 22 not later than thirty (30) days after:

23 (A) the date of the notice to the taxpayer under section 31.6(g)
 24 of this chapter; or

25 (B) the date after which the department may not change the
 26 amount of the assessment or reassessment under the informal
 27 hearing process described in section 31.6 of this chapter.

28 (d) The Indiana board may develop a form for petitions under
 29 subsection (c) that outlines:

30 (1) the appeal process;

31 (2) the burden of proof; and

32 (3) evidence necessary to warrant a change to an assessment or
 33 reassessment.

34 (e) The Indiana board may contract with, appoint, or otherwise
 35 designate the following to serve as special masters to conduct
 36 evidentiary hearings and prepare reports required under subsection (g):

37 (1) Independent, licensed appraisers.

38 (2) Attorneys.

39 (3) Certified level two or level three Indiana assessor-appraisers.
 40 ~~(including administrative law judges employed by the Indiana~~
 41 ~~board).~~

42 (4) Other qualified individuals.



1 (f) Each contract entered into under subsection (e) must specify the
2 appointee's compensation and entitlement to reimbursement for
3 expenses. The compensation and reimbursement for expenses are paid
4 from the county property reassessment fund.

5 (g) With respect to each petition for review filed under subsection
6 (c), the special masters shall:

7 (1) set a hearing date;

8 (2) give notice of the hearing at least thirty (30) days before the
9 hearing date, by mail, to:

10 (A) the taxpayer;

11 (B) the department of local government finance;

12 (C) the township assessor (if any); and

13 (D) the county assessor;

14 (3) conduct a hearing and hear all evidence submitted under this
15 section; and

16 (4) make evidentiary findings and file a report with the Indiana
17 board.

18 (h) At the hearing under subsection (g):

19 (1) the taxpayer shall present:

20 (A) the taxpayer's evidence that the assessment or
21 reassessment is incorrect;

22 (B) the method by which the taxpayer contends the assessment
23 or reassessment should be correctly determined; and

24 (C) comparable sales, appraisals, or other pertinent
25 information concerning valuation as required by the Indiana
26 board; and

27 (2) the department of local government finance shall present its
28 evidence that the assessment or reassessment is correct.

29 (i) The Indiana board may dismiss a petition for review filed under
30 subsection (c) if the evidence and other information required under
31 subsection (h)(1) is not provided at the hearing under subsection (g).

32 (j) The township assessor (if any) and the county assessor may
33 attend and participate in the hearing under subsection (g).

34 (k) The Indiana board may:

35 (1) consider the report of the special masters under subsection
36 (g)(4);

37 (2) make a final determination based on the findings of the special
38 masters without:

39 (A) conducting a hearing; or

40 (B) any further proceedings; and

41 (3) incorporate the findings of the special masters into the board's
42 findings in resolution of the appeal.



1 (l) The Indiana board may adopt rules under IC 4-22-2-37.1 to:

2 (1) establish procedures to expedite:

3 (A) the conduct of hearings under subsection (g); and

4 (B) the issuance of determinations of appeals under subsection

5 (k); and

6 (2) establish deadlines:

7 (A) for conducting hearings under subsection (g); and

8 (B) for issuing determinations of appeals under subsection (k).

9 (m) A determination by the Indiana board of an appeal under
10 subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

11 SECTION 66. IC 6-1.5-3-3 IS REPEALED [EFFECTIVE JULY 1,
12 2016]. Sec. 3: (a) ~~The Indiana board may, by written order, appoint
13 administrative law judges.~~

14 ~~(b) An administrative law judge may conduct any hearing that the
15 Indiana board is required by law to hold. In the written order by which
16 the Indiana board appoints an administrative law judge, the board shall
17 prescribe the duties of the position. The Indiana board may have
18 different administrative law judges simultaneously conduct numerous
19 hearings.~~

20 SECTION 67. IC 6-1.5-3-4, AS ADDED BY P.L.113-2010,
21 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2016]: Sec. 4. (a) As used in this section, "county board"
23 means a county property tax assessment board of appeals.

24 (b) Upon request by a county assessor, an employee of the Indiana
25 board may assist taxpayers and local officials in their attempts to
26 voluntarily resolve disputes in which:

27 (1) a taxpayer has filed written notice to obtain a county board's
28 review of an action by a township or county official; and

29 (2) the county board has not given written notice of its decision on
30 the issues under review.

31 (c) If an Indiana board employee assists in attempts to voluntarily
32 resolve a dispute as authorized in subsection (b), the employee may not

33 ~~(1) act as an administrative law judge on; or~~

34 ~~(2) participate in a decision relating to~~

35 a petition for review of the county board's action on that same dispute.

36 (d) Notwithstanding any other law, including IC 5-14-1.5, a
37 conference attended by an Indiana board employee acting in the
38 capacity described in subsection (b) is not required to be open to the
39 public. Such a conference may be open to the public only if both the
40 taxpayer and the township or county official from whose action the
41 taxpayer sought review agree to open the conference to the public.

42 (e) Notwithstanding any other law, a conference attended by an



1 Indiana board employee acting in the capacity described in subsection
 2 (b) is not a proceeding of the Indiana board, and the Indiana board is
 3 not required to keep a record of the conference.

4 SECTION 68. IC 6-1.5-4-2, AS ADDED BY P.L.154-2006,
 5 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 2. In order to obtain information that is necessary
 7 to the Indiana board's conduct of a necessary or proper inquiry, the
 8 Indiana board ~~or a board administrative law judge~~ may:

- 9 (1) subpoena and examine witnesses;
- 10 (2) administer oaths; and
- 11 (3) subpoena and examine books or papers that are in the hands
 12 of any person.

13 SECTION 69. IC 6-1.5-5-2, AS AMENDED BY P.L.146-2008,
 14 SECTION 308, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) After receiving a petition for
 16 review that is filed under a statute listed in section 1(a) of this chapter,
 17 the Indiana board shall, at its earliest opportunity,

- 18 ~~(1) conduct a hearing. or~~
- 19 ~~(2) cause a hearing to be conducted by an administrative law~~
 20 ~~judge.~~

21 The Indiana board may determine to conduct the hearing ~~under~~
 22 ~~subdivision (1)~~ on its own motion or on request of a party to the appeal.

23 (b) In its resolution of a petition, the Indiana board may correct any
 24 errors that may have been made and adjust the assessment in
 25 accordance with the correction.

26 (c) The Indiana board shall give notice of the date fixed for the
 27 hearing by mail to:

- 28 (1) the taxpayer;
- 29 (2) the department of local government finance; and
- 30 (3) the appropriate:
 - 31 (A) township assessor (if any);
 - 32 (B) county assessor; and
 - 33 (C) county auditor.

34 (d) With respect to an appeal of the assessment of real property or
 35 personal property filed after June 30, 2005, the notices required under
 36 subsection (c) must include the following:

- 37 (1) The action of the department of local government finance with
 38 respect to the appealed items.
- 39 (2) A statement that a taxing unit receiving the notice from the
 40 county auditor under subsection (e) may:
 - 41 (A) attend the hearing;
 - 42 (B) offer testimony; and



- 1 (C) file an amicus curiae brief in the proceeding.
- 2 (e) If, after receiving notice of a hearing under subsection (c), the
3 county auditor determines that the assessed value of the appealed items
4 constitutes at least one percent (1%) of the total gross certified assessed
5 value of a particular taxing unit for the assessment date immediately
6 preceding the assessment date for which the appeal was filed, the
7 county auditor shall send a copy of the notice to the affected taxing
8 unit. A taxing unit that receives a notice from the county auditor under
9 this subsection is not a party to the appeal. Failure of the county auditor
10 to send a copy of the notice to the affected taxing unit does not affect
11 the validity of the appeal or delay the appeal.
- 12 (f) The Indiana board shall give the notices required under
13 subsection (c) at least thirty (30) days before the day fixed for the
14 hearing.
- 15 SECTION 70. IC 6-1.5-5-9 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. In order to obtain
17 information that is necessary to the Indiana board's conduct of a
18 necessary or proper inquiry, the Indiana board ~~or a board administrative~~
19 ~~law judge~~ may:
- 20 (1) subpoena and examine witnesses;
 - 21 (2) administer oaths; and
 - 22 (3) subpoena and examine books or papers that are in the hands
23 of any person.
- 24 SECTION 71. IC 8-1-1-2 IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) There is created the Indiana
26 utility regulatory commission which shall consist of five (5) members,
27 at least one (1) of whom shall be an attorney qualified to practice law
28 before the supreme court of Indiana and not more than three (3) of
29 whom belong to the same political party.
- 30 (b) The members of the commission and all vacancies occurring
31 therein shall be appointed by the governor from among persons
32 nominated by the nominating committee in accordance with the
33 provisions of IC 8-1-1.5.
- 34 (c) The members may be removed at any time by the governor for
35 cause.
- 36 (d) The governor shall appoint one (1) member as chairman.
- 37 (e) The members of the commission shall be appointed for a term of
38 four (4) years, except when a member is appointed to fill a vacancy, in
39 which case such appointment shall be for such unexpired term only. All
40 members of said commission shall serve as such until their successors
41 are duly appointed and qualified, and while so serving shall devote full
42 time to the duties of the commission and shall not be actively engaged



1 in any other occupation, profession, or business that constitutes a
 2 conflict of interest or otherwise interferes with carrying out their duties
 3 as commissioners.

4 (f) A member of the commission or any person appointed to any
 5 position or employed in any capacity to serve the commission may not
 6 have any official or professional relationship or connection with, or
 7 hold any stock or securities or have any pecuniary interest in any public
 8 utility operating in Indiana.

9 (g) Each member appointed to the Indiana utility regulatory
 10 commission shall take and subscribe to an oath in writing that ~~he~~ **the**
 11 **member** will faithfully perform the duties of ~~his~~ **the member's** office,
 12 and support and defend to the best of ~~his~~ **the member's** ability the
 13 Constitution and laws of the state of Indiana and of the United States
 14 of America, and such oath shall be filed with the secretary of state.

15 (h) The chairman of the commission shall assign cases to the
 16 various members of the commission ~~or to administrative law judges~~ for
 17 hearings.

18 SECTION 72. IC 8-1-1-3 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) The members of the
 20 commission shall meet and organize the commission. The commission
 21 may, subject to the approval of the governor, appoint a secretary of the
 22 commission.

23 (b) The salaries of the members and secretary of the commission
 24 shall be fixed by the governor, subject to the approval of the budget
 25 agency; however, the salaries of the chairman and the members shall
 26 not be less than the following annual minimum amounts:

27 (1) For the chairman, sixty-five thousand dollars (\$65,000).

28 (2) For the members, sixty thousand dollars (\$60,000) each.

29 (c) ~~The commission may appoint one (1) or more administrative law~~
 30 ~~judges who shall be responsible to and serve at the will and pleasure of~~
 31 ~~the commission. While serving, the administrative law judges shall~~
 32 ~~devote full time to the duties of the commission and shall not be~~
 33 ~~actively engaged in any other occupation, profession, or business that~~
 34 ~~constitutes a conflict of interest or otherwise interferes with carrying~~
 35 ~~out their duties as administrative law judges. The salary of each~~
 36 ~~administrative law judge shall be fixed by the commission subject to~~
 37 ~~the approval of the budget agency but may not be less than the~~
 38 ~~following annual amounts:~~

39 (1) For the chief administrative law judge, forty-five thousand
 40 dollars (\$45,000):

41 (2) For all other administrative law judges, forty thousand dollars
 42 (\$40,000):



1 ~~(d)~~ (c) A majority of the commission members shall constitute a
2 quorum.

3 ~~(e)~~ (d) On order of the commission any one (1) member of the
4 commission ~~or an administrative law judge~~, may conduct a hearing, or
5 investigation, and take evidence therein, and report the same to the
6 commission for its consideration and action. ~~however, a hearing~~
7 ~~concerning a request for a general increase in the basic rates and~~
8 ~~charges of a utility in an amount exceeding twenty million dollars~~
9 ~~(\$20,000,000) may only be conducted by one (1) or more commission~~
10 ~~members.~~

11 ~~(f)~~ (e) Each member of the commission shall give bond in the sum
12 of ten thousand dollars (\$10,000) for the faithful performance of ~~his~~
13 ~~the member's~~ duties. Such bond shall be filed with the secretary of
14 state.

15 ~~(g)~~ (f) The commission shall formulate rules necessary or
16 appropriate to carry out the provisions of this chapter, and shall
17 perform the duties imposed by law upon them.

18 ~~(h)~~ (g) The commission may:

19 (1) employ, with the approval of the governor and the state budget
20 agency, sufficient professional staff, including but not limited to
21 specialists, technicians, and analysts, who are exempt from the
22 job classifications and compensation schedules established under
23 IC 4-15; and

24 (2) purchase, lease, or otherwise acquire for its internal use
25 sufficient technical equipment necessary for the commission to
26 carry out its statutory duties.

27 SECTION 73. IC 8-1-1-11 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. The commission is
29 authorized to employ such counsel or attorneys, engineers,
30 ~~administrative law judges~~, experts, clerks, accountants and other
31 assistants as it may deem necessary, at such rates of compensation as
32 it may determine upon, subject, however, to the approval of the
33 governor.

34 SECTION 74. IC 8-1-2-108 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 108. (a) An officer,
36 agent, or employee of any public utility, or a public utility (as defined
37 in this chapter) who:

38 (1) fails to fill out and return any blanks as required by this
39 chapter;

40 (2) fails to answer any question therein propounded;

41 (3) knowingly gives a false answer to any such question or evades
42 the answer to any such question where the fact inquired of is



1 within ~~his the officer's, agent's, or employee's~~ knowledge;
 2 (4) fails, upon proper demand, to exhibit to the commission, any
 3 commissioner, ~~any administrative law judge~~, or any person
 4 authorized to examine the same, any book, paper, account, record,
 5 or memoranda of the public utility which is in ~~his the officer's,~~
 6 ~~agent's, or employee's~~ possession or under ~~his the officer's,~~
 7 ~~agent's, or employee's~~ control;
 8 (5) fails to keep ~~his the officer's, agent's, or employee's~~ system
 9 of accounting, or any part thereof, which is required by the
 10 commission; or
 11 (6) refuses to do any act or thing in connection with the system of
 12 accounting when so directed by the commission or its authorized
 13 representative;

14 commits a Class B infraction.

15 (b) A municipally owned and operated utility under the jurisdiction
 16 of the commission for approval of rates and charges shall file with the
 17 commission an annual report of the operation of said plant on forms to
 18 be furnished by the commission, which forms are to be substantially the
 19 same as for reports filed annually with the commission by public
 20 utilities. Such annual reports shall remain in the office of said
 21 commission as a public record. Whenever in this chapter public
 22 utilities are required to make reports to the commission or are
 23 otherwise subject to the commission, municipally owned utilities are
 24 exempted from making such reports and are not under the jurisdiction
 25 of the commission, except as otherwise provided.

26 SECTION 75. IC 8-2.1-22-5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) The department,
 28 any member of the department or any authorized representative of the
 29 department, may compel the attendance of witnesses, swear witnesses,
 30 take their testimony under oath, make record of the testimony, and after
 31 the record is made under the direction of a department ~~administrative~~
 32 ~~law judge~~, or authorized representative of the department or the
 33 department may upon the record make an appropriate order.

34 (b) The department may hear all petitions, applications, or motions
 35 filed with the department. Hearings may be conducted by the
 36 department ~~or~~ by any member of the department. ~~or by any~~
 37 ~~administrative law judge authorized by the department. In case the~~
 38 ~~hearing is conducted by an administrative law judge, the administrative~~
 39 ~~law judge must promptly, but not later than thirty (30) days after the~~
 40 ~~conclusion of the hearing, unless the time is extended by order of the~~
 41 ~~department:~~

42 (1) report to the department the facts established by the evidence;



1 and

2 (2) submit a suggested order, showing the findings and a decision
3 in the order, to the department.

4 (c) Orders recommended by an administrative law judge must be
5 held for not less than ten (10) days during which time interested parties
6 may file written exceptions to the orders. In case no exceptions are
7 filed, the finding of facts and decision in form of order suggested by the
8 administrative law judge constitute the order of the department, unless
9 the department directs otherwise.

10 SECTION 76. IC 8-2.1-22-9 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. The department may
12 do and perform all reasonably necessary things to carry out the
13 purposes of this chapter, whether specifically mentioned in this chapter
14 or not, including the power, subject to the approval of the governor, to
15 employ and fix the compensation of ~~administrative law judges~~;
16 investigators, clerks, and other employees as are necessary for the
17 effective administration of this chapter.

18 SECTION 77. IC 8-2.1-22-9, AS AMENDED BY P.L.176-2006,
19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2016]: Sec. 29. (a) A person may not operate any motor
21 vehicle over the public highways for hire, unless the operations are
22 specifically exempt under this chapter, without first having obtained
23 appropriate operating authority from the department to do so, and
24 having otherwise complied with all other applicable provisions of this
25 chapter.

26 (b) The department or the state police department may apply to ~~an~~
27 ~~administrative law judge of the department~~ or a court with jurisdiction
28 for an order to impound a motor vehicle that is offered by a motor
29 carrier to the general public for the transportation of passengers for hire
30 if:

31 (1) the motor carrier has not obtained the required authority from
32 the department to operate the motor vehicle for hire; and

33 (2) there is probable cause to believe that the motor vehicle has
34 been operated on an Indiana highway to transport passengers for
35 hire.

36 A hearing on an application to impound a motor vehicle under this
37 subsection may not be held sooner than three (3) days after the date on
38 which a notice of hearing on the application is served on the motor
39 carrier. The motor carrier may contest the application to impound the
40 motor vehicle at the hearing.

41 (c) A motor carrier that operated a motor vehicle impounded under
42 this section may not obtain possession of the impounded motor vehicle



1 unless the motor carrier obtains the required authority to operate the
2 motor vehicle for hire.

3 SECTION 78. IC 8-2.1-24-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. The department, a
5 member of the department, or an authorized representative of the
6 department, may:

- 7 (1) compel the attendance of witnesses;
- 8 (2) swear witnesses;
- 9 (3) take testimony under oath; and
- 10 (4) make a record of testimony.

11 After a record is made under the direction of the department ~~an~~
12 ~~administrative law judge~~, or an authorized representative of the
13 department, the department may make an appropriate order upon the
14 record.

15 SECTION 79. IC 8-2.1-24-9 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. ~~(a)~~ The department
17 may hear all petitions or motions filed with the department. The
18 hearings may be conducted by the department ~~or~~ a member of the
19 department. ~~or an administrative law judge~~. The hearings shall be
20 conducted in accordance with rules adopted by the department under
21 IC 4-22-2.

22 ~~(b) An administrative law judge shall promptly report to the~~
23 ~~department the facts established by evidence and submit a suggested~~
24 ~~order, showing the findings and a decision to the department.~~

25 ~~(c) An order recommended by an administrative law judge may not~~
26 ~~be held for less than ten (10) days during which an interested party may~~
27 ~~file a written exception. If an exception is not filed, the finding of facts~~
28 ~~and decision in form of the order suggested by the administrative law~~
29 ~~judge shall be the order of the department, unless the department~~
30 ~~directs otherwise.~~

31 SECTION 80. IC 8-2.1-24-14 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. The department
33 may perform all reasonably necessary actions to carry out this chapter,
34 including the power, subject to:

- 35 (1) the approval of the state personnel department and the budget
36 agency; and
- 37 (2) IC 4-21.5;

38 to employ and fix the compensation of ~~administrative law judges~~,
39 investigators, clerks, and other employees as necessary or advisable for
40 the effective administration of this chapter.

41 SECTION 81. IC 13-15-6-1 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. ~~(a)~~ Not later than



1 fifteen (15) days after being served the notice provided by the
2 commissioner under IC 13-15-5-3:

3 (1) the permit applicant; or

4 (2) any other person aggrieved by the commissioner's action;

5 may appeal the commissioner's action to the ~~office of environmental~~
6 ~~adjudication~~ **administrative court established under IC 33-26.5** and
7 request that ~~an environmental law judge~~ **the court** hold an adjudicatory
8 hearing concerning the action under IC 4-21.5-3, ~~and IC 4-21.5-7.~~

9 ~~(b) Notwithstanding subsection (a) and IC 4-21.5-3-7(a)(3), a person~~
10 ~~may file an appeal of the commissioner's action in issuing an initial~~
11 ~~permit under the operating permit program under 42 U.S.C. 7661~~
12 ~~through 7661f not later than thirty (30) days after the date the person~~
13 ~~received the notice provided under IC 13-15-5-3, for a permit issued~~
14 ~~after April 30, 1999.~~

15 SECTION 82. IC 13-15-6-3 IS REPEALED [EFFECTIVE JULY 1,
16 2016]. Sec. 3: (a) Not later than thirty (30) days after being served a
17 request for an adjudicatory hearing, an environmental law judge under
18 IC 4-21.5-7 shall, if the environmental law judge determines that:

19 (1) the request was properly submitted; and

20 (2) the request establishes a jurisdictional basis for a hearing;

21 assign the matter for a hearing:

22 (b) Upon assigning the matter for a hearing, an environmental law
23 judge may stay the force and effect of the following:

24 (1) A contested permit provision:

25 (2) A permit term or condition the environmental law judge
26 considers inseverable from a contested permit provision:

27 (c) After a final hearing under this section, a final order of an
28 environmental law judge on a permit application is subject to review
29 under IC 4-21.5-5.

30 SECTION 83. IC 13-15-7-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. A person aggrieved
32 by the revocation or modification of a permit may appeal the revocation
33 or modification to the ~~office of environmental adjudication~~ for an
34 administrative ~~review~~ **court established under IC 33-26.5** under
35 IC 4-21.5-3. Pending the decision resulting from the hearing under
36 IC 4-21.5-3 concerning the permit revocation or modification, the
37 permit remains in force. However, the commissioner may seek
38 injunctive relief with regard to the activity described in the permit
39 while the decision resulting from the hearing is pending.

40 SECTION 84. IC 13-17-3-7 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) The
42 commissioner may enter into agreed orders as provided in



- 1 IC 13-30-3-6.
- 2 (b) ~~An environmental law judge under IC 4-21.5-7~~ **The**
 3 **administrative court established under IC 33-26.5** shall review
 4 orders and determinations of the commissioner.
- 5 SECTION 85. IC 13-17-6-10 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) If the
 7 commissioner finds that an asbestos project is not being performed in
 8 accordance with air pollution control laws or rules adopted under air
 9 pollution control laws, the commissioner may enjoin further work on
 10 the asbestos project without prior notice or hearing by delivering a
 11 notice to:
- 12 (1) the asbestos contractor engaged in the asbestos project; or
 13 (2) the agent or representative of the asbestos contractor.
- 14 (b) A notice issued under this section must:
- 15 (1) specifically enumerate the violations of law that are occurring
 16 on the asbestos project; and
 17 (2) prohibit further work on the asbestos project until the
 18 violations enumerated under subdivision (1) cease and the notice
 19 is rescinded by the commissioner.
- 20 (c) Not later than ten (10) days after receiving written notification
 21 from a contractor that violations enumerated in a notice issued under
 22 this section have been corrected, the commissioner shall issue a
 23 determination whether or not to rescind the notice.
- 24 (d) An asbestos contractor or any other person aggrieved or
 25 adversely affected by the issuance of a notice under subsection (a) may
 26 obtain a review of the commissioner's action under IC 4-21.5. ~~and~~
 27 ~~IC 4-21.5-7.~~
- 28 SECTION 86. IC 13-18-3-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The
 30 commissioner may enter into agreed orders as provided in
 31 IC 13-30-3-6.
- 32 (b) ~~An environmental law judge under IC 4-21.5-7~~ **The**
 33 **administrative court established under IC 33-26.5** shall review
 34 orders and determinations of the commissioner.
- 35 SECTION 87. IC 13-18-11-8, AS AMENDED BY P.L.159-2011,
 36 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 8. (a) The commissioner may suspend or revoke
 38 the certificate of an operator issued under this chapter, following a
 39 hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following
 40 conditions are found:
- 41 (1) The operator has practiced fraud or deception in any state or
 42 other jurisdiction.



- 1 (2) Reasonable care, judgment, or the application of the operator's
 2 knowledge or ability was not used in the performance of the
 3 operator's duties.
- 4 (3) The operator is incompetent or unable to properly perform the
 5 operator's duties.
- 6 (4) A certificate of the operator issued:
 7 (A) under this chapter; or
 8 (B) by any other state or jurisdiction for a purpose comparable
 9 to the purpose for which a certificate is issued under this
 10 chapter;
 11 has been revoked.
- 12 (5) The operator has been convicted of a crime related to a
 13 certificate of the operator issued:
 14 (A) under this chapter; or
 15 (B) by any other state or jurisdiction for a purpose comparable
 16 to the purpose for which a certificate is issued under this
 17 chapter.
- 18 (b) A hearing and further proceedings shall be conducted in
 19 accordance with ~~IC 4-21.5-7~~. **IC 4-21.5**.
- 20 SECTION 88. IC 13-19-3-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The
 22 commissioner may enter into agreed orders as provided in
 23 IC 13-30-3-6.
- 24 (b) ~~An environmental law judge under IC 4-21.5-7~~ **The**
 25 **administrative court established under IC 33-26.5** shall review
 26 orders and determinations of the commissioner.
- 27 SECTION 89. IC 13-20-13-5.5, AS AMENDED BY P.L.263-2013,
 28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2016]: Sec. 5.5. (a) A certificate of registration issued by the
 30 department under this chapter may be revoked or modified by the
 31 commissioner, or by a designated staff member of the department, after
 32 notification in writing is sent in accordance with IC 13-14-2-1 to the
 33 holder of the certificate for:
 34 (1) failure to disclose all relevant facts;
 35 (2) making a misrepresentation in obtaining the registration; or
 36 (3) failure to correct, within the time established by the
 37 department:
 38 (A) a violation of a condition of the registration; or
 39 (B) a violation of this chapter or a rule adopted by the board
 40 under section 11 of this chapter.
- 41 (b) A person aggrieved by the revocation or modification of a
 42 certificate of registration may appeal the revocation or modification to



1 the office of environmental adjudication under IC 4-21.5-7.
 2 **administrative court established under IC 33-26.5.** Pending the
 3 decision resulting from a hearing under IC 4-21.5-3 concerning the
 4 revocation or modification, the registration remains in force. However,
 5 subsequent to revocation or modification, the commissioner may seek
 6 injunctive relief concerning the activity described in the registration.

7 SECTION 90. IC 13-20-14-5.6, AS AMENDED BY P.L.263-2013,
 8 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 5.6. (a) A certificate of registration issued by the
 10 department under this chapter may be revoked or modified by the
 11 commissioner, or by a designated staff member of the department, after
 12 notification in writing is sent in accordance with IC 13-14-2-1 to the
 13 holder of the certificate, for:

- 14 (1) failure to disclose all relevant facts;
 15 (2) making a misrepresentation in obtaining the registration; or
 16 (3) failure to correct, within the time established by the
 17 department, a violation of:
 18 (A) a condition of the registration;
 19 (B) this chapter; or
 20 (C) a rule adopted by the board under section 6 of this chapter.

21 (b) A person aggrieved by the revocation or modification of a
 22 certificate of registration may appeal the revocation or modification to
 23 the office of environmental adjudication under IC 4-21.5-7.
 24 **administrative court established under IC 33-26.5.** Pending the
 25 decision resulting from a hearing under IC 4-21.5-3 concerning the
 26 revocation or modification, the registration remains in force. However,
 27 subsequent to revocation or modification, the commissioner may seek
 28 injunctive relief concerning the activity described in the registration.

29 SECTION 91. IC 13-23-9-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. If the administrator
 31 denies a request made under section 2 or 3 of this chapter, the owner
 32 or operator who made the request may appeal the denial under
 33 IC 4-21.5 to the office of environmental adjudication under
 34 IC 4-21.5-7. **administrative court established under IC 33-26.5.**

35 SECTION 92. IC 13-24-1-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Except where an
 37 owner or operator can prove that a release from a petroleum facility
 38 was caused by:

- 39 (1) an act of God;
 40 (2) an act of war;
 41 (3) negligence on the part of a local government, the state
 42 government, or the federal government;



- 1 (4) except as provided in subsection (b), an act or omission of a
 2 responsible person; or
 3 (5) a combination of the causes set forth in subdivisions (1)
 4 through (4);
 5 the owner or operator is liable to the state for the reasonable costs of
 6 any response or remedial action taken under section 2 of this chapter
 7 involving the petroleum facility. A responsible person is liable to the
 8 state for the reasonable costs of any response or remedial action taken
 9 under section 2 of this chapter involving the petroleum facility.
- 10 (b) The owner, operator, or responsible person is entitled to all
 11 rights of the state to recover from another responsible person all or a
 12 part of the costs described in subsection (a) incurred or paid to the state
 13 by the owner, operator, or responsible person in an action brought in a
 14 circuit or superior court with jurisdiction in the county in which the
 15 release occurred.
- 16 (c) Money recovered by the state under this section in connection
 17 with a removal or remedial action undertaken with respect to a release
 18 of petroleum shall be deposited in the hazardous substances response
 19 trust fund.
- 20 (d) The state may recover removal or remedial action costs under
 21 this section as follows:
 22 (1) Commence an action under IC 13-14-2-6 or IC 13-14-2-7.
 23 (2) Impose a lien under IC 13-25-4-11 on the property on which
 24 the removal or the remedial action was undertaken.
- 25 (e) ~~In an administrative action brought under this chapter, an~~
 26 ~~environmental law judge~~ **The administrative court established under**
 27 **IC 33-26.5** shall apportion the costs of a response or a remedial action
 28 in proportion to each party's responsibility for a release.
- 29 SECTION 93. IC 13-25-4-20 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20. ~~(a)~~ Before the date
 31 on which the state intends to impose a lien on real property under
 32 section 11 of this chapter, the owner of the real property may request
 33 that a hearing be conducted under IC 4-21.5. A hearing conducted
 34 under this section and IC 4-21.5 shall be limited to determining if there
 35 is probable cause to believe that:
 36 (1) a removal or a remedial action was conducted on the real
 37 property under:
 38 (A) this chapter; or
 39 (B) IC 13-24-1; and
 40 (2) if the removal or the remedial action was conducted under this
 41 chapter, the owner of the real property would be subject to
 42 liability under 42 U.S.C. 9607 (Section 107 of the federal



1 Comprehensive Environmental Response, Compensation, and
2 Liability Act).

3 (b) For the purposes of a hearing conducted under this section and
4 ~~IC 4-21.5~~, an environmental law judge is the ultimate authority.

5 SECTION 94. IC 13-30-3-5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Except as
7 otherwise provided in:

8 (1) a notice issued under section 4 of this chapter; or

9 (2) a law relating to emergency orders;

10 an order of the commissioner under this chapter takes effect twenty
11 (20) days after the alleged violator receives the notice, unless the
12 alleged violator requests under subsection (b) a review of the order
13 before the twentieth day after receiving the notice.

14 (b) To request a review of the order, the alleged violator must:

15 (1) file a written request with the office of environmental
16 adjudication under ~~IC 4-21.5-7~~; **administrative court**
17 **established under IC 33-26.5**; and

18 (2) serve a copy of the request on the commissioner.

19 (c) If a review of an order is requested under this section, the office
20 of environmental adjudication established under ~~IC 4-21.5-7~~
21 **administrative court established under IC 33-26.5** shall review the
22 order under IC 4-21.5.

23 SECTION 95. IC 13-30-3-7 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. A final order of an
25 environmental law judge **the administrative court established under**
26 **IC 33-26.5** is subject to judicial review under IC 4-21.5-5.

27 SECTION 96. IC 14-10-2-2 IS REPEALED [EFFECTIVE JULY 1,
28 2016]. Sec. 2: (a) The commission shall appoint administrative law
29 judges:

30 (b) The commission shall create a division of hearings. The division
31 of hearings shall assist the commission in performing the functions of
32 this section. The director of the division of hearings may appoint a
33 special administrative law judge:

34 (c) A person who is not appointed by:

35 (1) the director of the division of hearings; or

36 (2) the commission;

37 may not act as an administrative law judge.

38 SECTION 97. IC 14-10-2-2.5 IS REPEALED [EFFECTIVE JULY
39 1, 2016]. Sec. 2.5: (a) A person who is the party in a hearing under this
40 title or ~~IC 4-21.5-7~~ may move to have the:

41 (1) environmental law judge appointed under ~~IC 4-21.5-7~~; or

42 (2) administrative law judge appointed under section 2 of this



1 chapter;
 2 consolidate multiple proceedings that are subject to the jurisdiction of
 3 both the office of environmental adjudication and the division of
 4 hearings.

5 (b) The environmental law judge or the administrative law judge
 6 shall grant the motion made under subsection (a) if the following
 7 findings are made:

8 (1) The proceedings include the following:

9 (A) Common questions of law or fact.

10 (B) At least one (1) person, other than the department or the
 11 department of environmental management, who is a party to
 12 all the proceedings.

13 (C) Issues of water quality, water quantity, or both.

14 (2) Consolidation may support administrative efficiency.

15 (c) If a motion to consolidate proceedings has been granted under
 16 subsection (b), the hearing must be conducted by a panel that consists
 17 of at least one (1) environmental law judge and one (1) administrative
 18 law judge. The panel is the ultimate authority for matters authorized
 19 under IC 4-21.5-7-5 and this title. Any party, including the department
 20 and the department of environmental management, may petition an
 21 appropriate court for judicial review of a final determination of the
 22 panel.

23 (d) The office of environmental adjudication and the division of
 24 hearings shall adopt joint rules to implement this section.

25 SECTION 98. IC 14-10-2-3, AS AMENDED BY P.L.84-2008,
 26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2016]: Sec. 3. ~~Except as provided in section 2.5 of this chapter~~
 28 ~~and IC 14-34-2-2~~; The commission is the ultimate authority of the
 29 department under IC 4-21.5.

30 SECTION 99. IC 14-22-32-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. If a person violates
 32 section 2(1) of this chapter, the department shall enter a recommended
 33 order to dispose of any game bird or exotic mammal the person owns,
 34 keeps, harbors, or otherwise possesses. Before the order becomes a
 35 final determination of the department, a hearing must be held under
 36 IC 4-21.5-3. The hearing shall be conducted by ~~an administrative law~~
 37 ~~judge for the commission~~. The determination of the administrative law
 38 ~~judge is a final agency action under IC 4-21.5-1-6.~~ **the administrative**
 39 **court established under IC 33-26.5.**

40 SECTION 100. IC 14-34-1-5 IS REPEALED [EFFECTIVE JULY
 41 1, 2016]. Sec. 5. ~~Notwithstanding IC 4-21.5-3-25(d)~~, under this article
 42 an administrative law judge may not impose conditions upon the



1 participation or testimony of a party or limit discovery;
 2 cross-examination; or argument that would cause implementation of
 3 this article to be inconsistent with or not in accordance with the federal
 4 Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201
 5 through 1328);

6 SECTION 101. IC 14-34-2-2, AS AMENDED BY P.L.84-2008,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 2. (a) The commission shall appoint the following:

9 (1) An administrative law judge to conduct proceedings under
 10 IC 4-21.5: An administrative law judge is subject to IC 14-10-2-2.

11 (2) a hearing officer to conduct proceedings under IC 4-22-2.

12 (b) An administrative law judge is the ultimate authority for the
 13 department for any administrative review proceeding under this article;
 14 except for the following:

15 (1) Proceedings concerning the approval or disapproval of a
 16 permit application or permit renewal under IC 14-34-4-13.

17 (2) Proceedings for suspension or revocation of a permit under
 18 IC 14-34-15-7.

19 (3) Proceedings consolidated with the office of environmental
 20 adjudication under IC 14-10-2-2.5.

21 (c) An order made by an administrative law judge granting or
 22 denying temporary relief from a decision of the director is a final order
 23 of the department.

24 (d) Judicial review of a final order made by an administrative law
 25 judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or
 26 IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

27 SECTION 102. IC 16-19-10-7 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) This section does
 29 not apply to medical or epidemiological information protected from
 30 disclosure under IC 16-41-8-1 or data or information that is
 31 confidential under IC 16-21-6-7 or IC 16-39-5-3.

32 (b) Except as provided in subsection (c), medical or epidemiological
 33 information:

34 (1) collected from or volunteered by a person; and

35 (2) that results in or from:

36 (A) a public health surveillance;

37 (B) a public health investigation; or

38 (C) an epidemiological investigation or study;

39 may be released only in a form that protects the identity of a person
 40 whose medical or epidemiological information was obtained.

41 (c) Medical or epidemiological information described in subsection
 42 (b) may be released in a form that does not protect the identity of a



1 person whose medical or epidemiological information was obtained if:

- 2 (1) the person consents in writing to the release of the person's
 3 medical or epidemiological information; or
 4 (2) the investigation or study results in an administrative or a
 5 judicial proceeding and release of the medical or epidemiological
 6 information is ordered by the administrative law judge or the
 7 court.

8 SECTION 103. IC 16-21-4-2 IS REPEALED [EFFECTIVE JULY
 9 1, 2016]. Sec. 2: (a) The state department shall appoint an appeals
 10 panel consisting of three (3) members as follows:

- 11 (1) One (1) member of the executive board.
 12 (2) One (1) attorney admitted to the practice of law in Indiana.
 13 (3) One (1) individual with qualifications determined by the state
 14 department.

15 (b) An employee of the state department may not be a member of
 16 the panel.

17 (c) The panel shall conduct proceedings for review of an order
 18 issued by an administrative law judge under this chapter. The panel is
 19 the ultimate authority under IC 4-21.5.

20 SECTION 104. IC 16-25-5-7 IS REPEALED [EFFECTIVE JULY
 21 1, 2016]. Sec. 7: (a) For an appeal under section 6 of this chapter, the
 22 executive board shall appoint an appeals panel consisting of three (3)
 23 members as follows:

- 24 (1) One (1) member of the executive board.
 25 (2) One (1) attorney admitted to the practice of law in Indiana.
 26 (3) One (1) individual with qualifications determined by the
 27 executive board.

28 (b) An employee of the state department may not be a member of
 29 the appeals panel.

30 (c) The appeals panel shall conduct proceedings for review of an
 31 order issued by an administrative law judge under this chapter. The
 32 appeals panel is the ultimate authority under IC 4-21.5.

33 (d) The costs of the proceedings, including the fees of the appeals
 34 panel, shall be paid as follows:

- 35 (1) By the hospice, if the appeals panel finds in favor of the state
 36 department.
 37 (2) By the state department, if the appeals panel finds in favor of
 38 the hospice.

39 SECTION 105. IC 16-27-1-14 IS REPEALED [EFFECTIVE JULY
 40 1, 2016]. Sec. 14: (a) The executive board shall appoint an appeals
 41 panel consisting of three (3) members as follows:

- 42 (1) One (1) member of the executive board.



1 (2) One (1) attorney admitted to the practice of law in Indiana
2 who is not an employee of the state department.

3 (3) One (1) individual with qualifications determined by the
4 executive board.

5 (b) An employee of the state department may not be a member of
6 the panel.

7 (c) The panel shall conduct proceedings for review of an order
8 issued by an administrative law judge under this chapter. The panel is
9 the ultimate authority under IC 4-21.5.

10 SECTION 106. IC 16-27-4-22 IS REPEALED [EFFECTIVE JULY
11 1, 2016]. Sec. 22: (a) In response to a request for review of an order
12 referred to in subsection (c); the executive board shall appoint an
13 appeals panel that consists of three (3) members as follows:

14 (1) One (1) member of the executive board.

15 (2) One (1) attorney admitted to the practice of law in Indiana.

16 (3) One (1) individual with qualifications determined by the
17 executive board.

18 (b) An employee of the state department may not be a member of
19 the panel.

20 (c) The panel shall conduct proceedings for review of an order
21 issued by an administrative law judge under this chapter. The panel is
22 the ultimate authority under IC 4-21.5.

23 SECTION 107. IC 16-28-10-1, AS AMENDED BY P.L.141-2014,
24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2016]: Sec. 1. (a) Hearings under this article shall be
26 conducted in accordance with IC 4-21.5. Except for hearings held on
27 the adoption of rules, an administrative law judge must meet the
28 following conditions:

29 (1) Be admitted to the practice of law in Indiana.

30 (2) Not be an employee of the state.

31 (b) A health facility shall pay the costs of appointing an
32 administrative law judge if the administrative law judge finds in favor
33 of the state. However, if the administrative law judge finds in favor of
34 the health facility, the state shall pay the costs of appointing the
35 administrative law judge.

36 SECTION 108. IC 16-28-10-2 IS REPEALED [EFFECTIVE JULY
37 1, 2016]. Sec. 2: (a) The executive board shall appoint an appeals panel
38 consisting of three (3) members as follows:

39 (1) One (1) member of the executive board.

40 (2) One (1) attorney admitted to the practice of law in Indiana.

41 (3) One (1) individual with qualifications determined by the
42 executive board.



1 (b) An employee of the state may not be a member of the panel:

2 (c) An appeals panel shall conduct proceedings for review of an
3 order issued by an administrative law judge under this chapter. The
4 panel is the ultimate authority under IC 4-21.5:

5 (d) The cost of the proceedings, including the fees of the appeals
6 panel, shall be paid as follows:

7 (1) By the health facility if the panel finds in favor of the state:

8 (2) By the state if the panel finds in favor of the health facility:

9 SECTION 109. IC 16-41-11-8, AS AMENDED BY P.L.6-2012,
10 SECTION 121, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) A person who believes that
12 this chapter or rules adopted under this chapter have been violated may
13 file a complaint with the state department. A complaint must be in
14 writing unless the violation complained of constitutes an emergency.
15 The state department shall reduce an oral complaint to writing. The
16 state department shall maintain the confidentiality of the person who
17 files the complaint.

18 (b) The state department shall promptly investigate all complaints
19 received under this section.

20 (c) The state department shall not disclose the name or identifying
21 characteristics of the person who files a complaint under this section
22 unless:

23 (1) the person consents in writing to the disclosure; or

24 (2) the investigation results in an administrative or judicial
25 proceeding and disclosure is ordered by the administrative law
26 judge court or the circuit or superior court.

27 (d) The state department shall give a person who files a complaint
28 under this section the opportunity to withdraw the complaint before
29 disclosure.

30 (e) An employee must make a reasonable attempt to ascertain the
31 correctness of any information to be furnished and may be subject to
32 disciplinary actions for knowingly furnishing false information,
33 including suspension or dismissal, as determined by the employer or
34 the ethics commission. However, an employee disciplined under this
35 subsection is entitled to process an appeal of the disciplinary action
36 under any procedure otherwise available to the employee by
37 employment contract, collective bargaining agreement, or, if the
38 employee is an employee of the state, IC 4-15-2.2-42.

39 (f) The employer of an employee who files a complaint in good faith
40 with the state department under this section may not, solely in
41 retaliation for filing the complaint, do any of the following:

42 (1) Dismiss the employee.



1 (2) Withhold salary increases or employment related benefits
2 from the employee.

3 (3) Transfer or reassign the employee.

4 (4) Deny a promotion that the employee would have received.

5 (5) Demote the employee.

6 SECTION 110. IC 22-4-2-39 IS REPEALED [EFFECTIVE JULY
7 1, 2016]. Sec. 39: As used in this article, "liability administrative law
8 judge" means a person who is:

9 (1) employed as an administrative law judge under IC 22-4-17-4;
10 and

11 (2) authorized to hear matters described in IC 22-4-32-1.

12 SECTION 111. IC 22-4-10-1, AS AMENDED BY P.L.175-2009,
13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2016]: Sec. 1. (a) Contributions shall accrue and become
15 payable from each employer for each calendar year in which it is
16 subject to this article with respect to wages paid during such calendar
17 year. Where the status of an employer is changed by cessation or
18 disposition of business or appointment of a receiver, trustees, trustee
19 in bankruptcy, or other fiduciary, contributions shall immediately
20 become due and payable on the basis of wages paid or payable by such
21 employer as of the date of the change of status. Such contributions shall
22 be paid to the department in such manner as the department may
23 prescribe, and shall not be deducted, in whole or in part, from the
24 remuneration of individuals in an employer's employ. When
25 contributions are determined in accordance with Schedule A as
26 provided in IC 22-4-11-3, the department may prescribe rules to require
27 an estimated advance payment of contributions in whole or in part, if
28 in the judgment of the department such advance payments will avoid
29 a debit balance in the fund during the calendar quarter to which the
30 advance payment applies. An adjustment shall be made following the
31 quarter in which an advance payment has been made to reflect the
32 difference between the estimated contribution and the contribution
33 actually payable. Advance payment of contributions shall not be
34 required for more than one (1) calendar quarter in any calendar year.

35 (b) Any employer which is, or becomes, subject to this article by
36 reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as
37 provided under this article unless it elects to become liable for
38 "payments in lieu of contributions" (as defined in IC 22-4-2-32).

39 (c) Except as provided in subsection (e), the election to become
40 liable for "payments in lieu of contributions" must be filed with the
41 department on a form prescribed by the department not later than
42 thirty-one (31) days following the date upon which such entity qualifies



1 as an employer under this article, and shall be for a period of not less
2 than two (2) calendar years.

3 (d) Any employer that makes an election in accordance with
4 subsections (b) and (c) will continue to be liable for "payments in lieu
5 of contributions" until it files with the department a written notice
6 terminating its election. The notice filed by an employer to terminate
7 its election must be filed not later than thirty (30) days prior to the
8 beginning of the taxable year for which such termination shall first be
9 effective.

10 (e) Any employer that qualifies to elect to become liable for
11 "payments in lieu of contributions" and has been paying contributions
12 under this article, may change to a reimbursable basis by filing with the
13 department not later than thirty (30) days prior to the beginning of any
14 taxable year a written notice of election to become liable for payments
15 in lieu of contributions. Such election shall not be terminable by the
16 organization for that **year** and the next year.

17 (f) Employers making "payments in lieu of contributions" under
18 subsections (b) and (c) shall make reimbursement payments monthly.
19 At the end of each calendar month the department shall bill each such
20 employer (or group of employers) for an amount equal to the full
21 amount of regular benefits plus the part of benefits not reimbursed by
22 the federal government under the Federal-State Extended
23 Unemployment Compensation Act of 1970 paid during such month that
24 is attributable to services in the employ of such employers or group of
25 employers. Governmental entities of this state and its political
26 subdivisions electing to make "payments in lieu of contributions" shall
27 be billed by the department at the end of each calendar month for an
28 amount equal to the full amount of regular benefits plus the part of
29 benefits not reimbursed by the federal government under the
30 Federal-State Extended Unemployment Compensation Act of 1970
31 paid during the month that is attributable to service in the employ of
32 the governmental entities.

33 (g) Payment of any bill rendered under subsection (f) shall be made
34 not later than thirty (30) days after such bill was mailed to the last
35 known address of the employer or was otherwise delivered to it, unless
36 there has been an application for review and redetermination filed
37 under subsection (i).

38 (h) Payments made by any employer under the provisions of
39 subsections (f) through (j) shall not be deducted or deductible, in whole
40 or in part, from the remuneration of individuals in the employ of the
41 employer.

42 (i) The amount due specified in any bill from the department shall



1 be conclusive on the employer unless, not later than fifteen (15) days
 2 after the bill was mailed to its last known address or otherwise
 3 delivered to it, the employer files an application for redetermination. If
 4 the employer so files, the employer shall have an opportunity to be
 5 heard, and such hearing shall be conducted by a ~~liability administrative~~
 6 ~~law judge~~ **the administrative court established under IC 33-26.5**
 7 pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the
 8 ~~liability administrative law judge~~ **court** shall immediately notify the
 9 employer in writing of the finding, and the bill, if any, so made shall be
 10 final ~~in the absence of judicial review proceedings~~, fifteen (15) days
 11 after such notice is issued.

12 (j) Past due payments of amounts in lieu of contributions shall be
 13 subject to the same interest and penalties that, pursuant to IC 22-4-29,
 14 apply to past due contributions.

15 (k) Two (2) or more employers that have elected to become liable
 16 for "payments in lieu of contributions" in accordance with subsections
 17 (b) and (c) may file a joint application with the department for the
 18 establishment of a group account for the purpose of sharing the cost of
 19 benefits paid that are attributable to service in the employ of such
 20 employers. Such group account shall be established as provided in
 21 regulations prescribed by the commissioner.

22 SECTION 112. IC 22-4-11.5-2 IS REPEALED [EFFECTIVE JULY
 23 1, 2016]. ~~Sec. 2: As used in this chapter, "administrative law judge"~~
 24 ~~means a person employed by the commissioner under IC 22-4-17-4.~~

25 SECTION 113. IC 22-4-11.5-7, AS AMENDED BY P.L.108-2006,
 26 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2016]: Sec. 7. (a) This section applies to a transfer of a trade
 28 or business that meets the following requirements:

29 (1) An employer transfers all or a portion of the employer's trade
 30 or business to another employer.

31 (2) At the time of the transfer, the two (2) employers have
 32 substantially common ownership, management, or control.

33 (b) The successor employer shall assume the experience account
 34 balance of the predecessor employer for the resources and liabilities of
 35 the predecessor employer's experience account that are attributable to
 36 the transfer.

37 (c) The contribution rates of both employers shall be recalculated,
 38 and the recalculated rate made effective on the effective date of the
 39 transfer described in subsection (a).

40 (d) The payroll of the predecessor employer on the effective date of
 41 the transfer, and the benefits chargeable to the predecessor employer's
 42 original experience account after the effective date of the transfer, must



1 be divided between the predecessor employer and the successor
 2 employer in accordance with rules adopted by the department under
 3 IC 4-22-2.

4 (e) Any written determination made by the department is conclusive
 5 and binding on both the predecessor employer and the successor
 6 employer unless one (1) employer files or both employers file a written
 7 protest with the department setting forth all reasons for the protest. A
 8 protest under this section must be filed not later than fifteen (15) days
 9 after the date the department sends the initial determination to the
 10 employers. The protest shall be heard and determined under this
 11 section and IC 22-4-32-1 through IC 22-4-32-15. The predecessor
 12 employer, the successor employer, and the department shall be parties
 13 to the hearing before the ~~liability~~ administrative ~~law judge~~ **court**
 14 **established under IC 33-26.5** and are entitled to receive copies of all
 15 pleadings and the decision.

16 SECTION 114. IC 22-4-11.5-8, AS AMENDED BY P.L.175-2009,
 17 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2016]: Sec. 8. (a) If the department determines that an
 19 employing unit or other person that is not an employer under IC 22-4-7
 20 at the time of the acquisition has acquired an employer's trade or
 21 business solely or primarily for the purpose of obtaining a lower
 22 employer contribution rate, the employing unit or other person:

23 (1) may not assume the experience account balance of the
 24 predecessor employer for the resources and liabilities of the
 25 predecessor employer's experience account that are attributable to
 26 the acquisition; and

27 (2) shall pay the applicable contribution rate as determined under
 28 this article.

29 (b) In determining whether an employing unit or other person
 30 acquired a trade or business solely or primarily for the purpose of
 31 obtaining a lower employer contribution rate under subsection (a), the
 32 department shall consider the following factors:

33 (1) The cost of acquiring the trade or business.

34 (2) Whether the employing unit or other person continued the
 35 business enterprise of the acquired trade or business, including
 36 whether the predecessor employer is no longer performing the
 37 same trade or business and the trade or business is performed by
 38 the employing unit to whom the workforce is transferred. An
 39 employing unit is considered to continue the business enterprise
 40 if any one (1) of the following applies:

41 (A) The predecessor employer and the employing unit are
 42 corporations that are members of a "controlled group of



- 1 corporations", as defined in Section 1563 of the Internal
 2 Revenue Code (generally parent-subsidiary or brother-sister
 3 controlled groups), or would be members if Section 1563(a)(4)
 4 and 1563(b) of the Internal Revenue Code did not apply and
 5 if the phrase "more than fifty percent (50%)" were substituted
 6 for the phrase "at least eighty percent (80%)" wherever it
 7 appears in Section 1563(a) of the Internal Revenue Code.
- 8 (B) The predecessor employer and the employing unit are
 9 entities that are part of an affiliated group, as defined in
 10 Section 1504 of the Internal Revenue Code, except that the
 11 ownership percentage in Section 1504(a)(2) of the Internal
 12 Revenue Code shall be determined using fifty percent (50%)
 13 instead of eighty percent (80%).
- 14 (C) A predecessor employer and an employing unit are entities
 15 that do not issue stock, either fifty percent (50%) or more of
 16 the members of one (1) entity's board of directors (or other
 17 governing body) are members of the other entity's board of
 18 directors (or other governing body), or the holders of fifty
 19 percent (50%) or more of the voting power to select these
 20 members are concurrently the holders of fifty percent (50%) or
 21 more of that power with respect to the other entity.
- 22 (D) Fifty percent (50%) or more of one (1) entity's officers are
 23 concurrently officers of the other entity.
- 24 (E) Thirty percent (30%) or more of one (1) entity's employees
 25 are concurrently employees of the other entity.
- 26 (3) The length of time the employing unit or other person
 27 continued the business enterprise of the acquired trade or
 28 business.
- 29 (4) Whether a substantial number of new employees were hired
 30 to perform duties unrelated to the business enterprise that the
 31 trade or business conducted before the trade or business was
 32 acquired.
- 33 (5) Whether the predecessor employer and the employing unit are
 34 united by factors of control, operation, or use.
- 35 (6) Whether a new employing unit is being created solely to
 36 obtain a lower contribution rate.
- 37 (c) Any written determination made by the department is conclusive
 38 and binding on the employing unit or other person, unless the
 39 employing unit or other person files a written protest with the
 40 department setting forth all reasons for the protest. A protest under this
 41 section must be filed not later than fifteen (15) days after the date the
 42 department sends the initial determination to the employing unit or



1 other person. The protest shall be heard and determined under this
 2 section and IC 22-4-32-1 through IC 22-4-32-15. The department and
 3 the employing unit or other person shall be parties to the hearing before
 4 the ~~liability~~ administrative ~~law judge~~ **court established under**
 5 **IC 33-26.5** and are entitled to receive copies of all pleadings and the
 6 decision.

7 SECTION 115. IC 22-4-11.5-9, AS AMENDED BY P.L.108-2006,
 8 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 9. (a) A person who knowingly or recklessly:

10 (1) violates or attempts to violate:

11 (A) section 7 or 8 of this chapter; or

12 (B) any other provision of this article related to determining
 13 the assumption or assignment of an employer's contribution
 14 rate; or

15 (2) advises another person in a way that results in a violation of:

16 (A) section 7 or 8 of this chapter; or

17 (B) any other provision of this article related to determining
 18 the assumption or assignment of an employer's contribution
 19 rate;

20 is subject to a civil penalty under this chapter.

21 (b) If the department determines that an employer (as defined under
 22 IC 22-4-7) is subject to a civil penalty under subsection (a)(1), the
 23 department shall assign an employer contribution rate equal to one (1)
 24 of the following as a civil penalty:

25 (1) The highest employer contribution rate assignable under this
 26 article for the year in which the violation occurred and the
 27 following three (3) years.

28 (2) An additional employer contribution rate of two percent (2%)
 29 of the employer's taxable wages (as defined in IC 22-4-4-2) for
 30 the year in which the violation occurred and the following three
 31 (3) years, if:

32 (A) an employer is already paying the highest employer
 33 contribution rate at the time of the violation; or

34 (B) the increase in the contribution rate described in
 35 subdivision (1) is less than two percent (2%).

36 (c) If the department determines that a person who is not an
 37 employer (as defined in IC 22-4-7) is subject to a civil penalty under
 38 subsection (a)(2), the department shall assess a civil penalty of not
 39 more than five thousand dollars (\$5,000).

40 (d) All civil penalties collected under this section shall be deposited
 41 in the unemployment insurance benefit fund established by
 42 IC 22-4-26-1.



1 (e) Any written determination made by the department is conclusive
 2 and binding on the employing unit, employer, or person unless the
 3 employing unit, employer, or person files a written protest with the
 4 department setting forth all reasons for the protest. A protest under this
 5 section must be filed not later than fifteen (15) days after the date the
 6 department sends the initial determination to the employing unit,
 7 employer, or person. The protest shall be heard and determined under
 8 this section and IC 22-4-32-1 through IC 22-4-32-15. The employing
 9 unit, employer, or person, and the department shall be parties to the
 10 hearing before the ~~liability~~ administrative law judge **court established**
 11 **under IC 33-26.5** and are entitled to receive copies of all pleadings
 12 and the decision.

13 SECTION 116. IC 22-4-13-1, AS AMENDED BY P.L.183-2015,
 14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2016]: Sec. 1. (a) Whenever an individual receives benefits or
 16 extended benefits to which the individual is not entitled under:

17 (1) this article; or

18 (2) the unemployment insurance law of the United States;

19 the department shall establish that an overpayment has occurred and
 20 establish the amount of the overpayment. For an overpayment
 21 described in subsection (e), the department has four (4) years from the
 22 date of the overpayment to establish that the overpayment occurred and
 23 the amount of the overpayment.

24 (b) An individual described in subsection (a) is liable to repay the
 25 established amount of the overpayment.

26 (c) Any individual who knowingly:

27 (1) makes, or causes to be made by another, a false statement or
 28 representation of a material fact knowing it to be false; or

29 (2) fails, or causes another to fail, to disclose a material fact; and
 30 as a result thereof has received any amount as benefits to which the
 31 individual is not entitled under this article, shall be liable to repay such
 32 amount, with interest at the rate of one-half percent (0.5%) per month,
 33 to the department for the unemployment insurance benefit fund or to
 34 have such amount deducted from any benefits otherwise payable to the
 35 individual under this article.

36 (d) Any individual who fails to report wages received during a week
 37 in which benefits were paid or because of the subsequent receipt of
 38 income deductible from benefits which is allocable to the week or
 39 weeks for which benefits were paid and as a result is not entitled to
 40 such benefits under this article shall be liable to repay such amount to
 41 the department for the unemployment insurance benefit fund or to have
 42 such amount deducted from any benefits otherwise payable to the



1 individual under this article.

2 (e) An individual who for any reason not described in subsection (c)
3 or (d) has received any amount as benefits to which the individual is
4 not entitled under this article is liable to repay that amount to the
5 department for the unemployment insurance benefit fund or to have
6 that amount deducted from any benefits otherwise payable to the
7 individual under this article.

8 (f) When benefits are paid to an individual who was eligible or
9 qualified to receive such payments, but when such payments are made
10 because of the failure of representatives or employees of the
11 department to transmit or communicate to such individual notice of
12 suitable work offered, through the department, to such individual by an
13 employing unit, then and in such cases, the individual shall not be
14 required to repay or refund amounts so received, but such payments
15 shall be deemed to be benefits improperly paid.

16 (g) Where it is finally determined by a deputy, ~~an administrative law~~
17 ~~judge~~, the review board, or a court of competent jurisdiction that an
18 individual has received benefits to which the individual is not entitled
19 under this article, the department shall relieve the affected employer's
20 experience account of any benefit charges directly resulting from such
21 overpayment, except as provided under IC 22-4-11-1.5. However, an
22 employer's experience account will not be relieved of the charges
23 resulting from an overpayment of benefits which has been created by
24 a retroactive payment by such employer directly or indirectly to the
25 claimant for a period during which the claimant claimed and was paid
26 benefits unless the employer reports such payment by the end of the
27 calendar quarter following the calendar quarter in which the payment
28 was made or unless and until the overpayment has been collected.
29 Those employers electing to make payments in lieu of contributions
30 shall not have their account relieved as the result of any overpayment
31 unless and until such overpayment has been repaid to the
32 unemployment insurance benefit fund.

33 (h) Where any individual is liable to repay any amount to the
34 department for the unemployment insurance benefit fund for the
35 restitution of benefits to which the individual is not entitled under this
36 article, the amount due may be collectible without interest, except as
37 otherwise provided in subsection (c), by civil action in the name of the
38 state of Indiana, on relation of the department, which remedy by civil
39 action shall be in addition to all other existing remedies and to the
40 methods for collection provided in this article.

41 (i) Liability for repayment of benefits paid to an individual (other
42 than an individual employed by an employer electing to make payments



1 in lieu of contributions) for any week may be waived upon the request
2 of the individual if:

3 (1) the benefits were received by the individual without fault of
4 the individual;

5 (2) the benefits were the result of payments made:

6 (A) during the pendency of an appeal before an administrative
7 law judge or the review board under IC 22-4-17 under which
8 the individual is determined to be ineligible for benefits; or

9 (B) because of an error by the employer or the department; and

10 (3) repayment would cause economic hardship to the individual.

11 SECTION 117. IC 22-4-13-1.1, AS AMENDED BY P.L.121-2014,
12 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2016]: Sec. 1.1. (a) Notwithstanding any other provisions of
14 this article, if an individual knowingly:

15 (1) fails to disclose amounts earned during any week in the
16 individual's waiting period, benefit period, or extended benefit
17 period; or

18 (2) fails to disclose or has falsified any fact;

19 that would disqualify the individual for benefits, reduce the individual's
20 benefits, or render the individual ineligible for benefits or extended
21 benefits, the individual forfeits any wage credits earned or any benefits
22 or extended benefits that might otherwise be payable to the individual
23 for any week in which the failure to disclose or falsification caused
24 benefits to be paid improperly.

25 (b) In addition to amounts forfeited under subsection (a), an
26 individual is subject to the following civil penalties for each instance
27 in which the individual knowingly fails to disclose or falsifies any fact
28 that if accurately reported to the department would disqualify the
29 individual for benefits, reduce the individual's benefits, or render the
30 individual ineligible for benefits or extended benefits:

31 (1) For the first instance, an amount equal to twenty-five percent
32 (25%) of the benefit overpayment.

33 (2) For the second instance, an amount equal to fifty percent
34 (50%) of the benefit overpayment.

35 (3) For the third and each subsequent instance, an amount equal
36 to one hundred percent (100%) of the benefit overpayment.

37 (c) The department's determination under this section constitutes an
38 initial determination under IC 22-4-17-2(a) and is subject to a hearing
39 and review under IC 22-4-17-3 through ~~IC 22-4-17-15~~. **IC 22-4-17-14.**

40 (d) Interest and civil penalties collected under this chapter shall be
41 deposited as follows:

42 (1) Fifteen percent (15%) of the amount collected shall be



1 deposited in the unemployment insurance benefit fund established
2 under IC 22-4-26-1.

3 (2) The remainder of the amount collected shall be deposited in
4 the special employment and training services fund established
5 under IC 22-4-25-1.

6 SECTION 118. IC 22-4-13.3-8, AS ADDED BY P.L.183-2015,
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2016]: Sec. 8. (a) An individual who receives a notice under
9 section 2 of this chapter may contest the withholding and assert
10 exemptions by requesting, in writing, not later than fifteen (15) days
11 after the date on the notice, ~~an administrative a~~ hearing by ~~an the~~
12 administrative law judge of the department: **court established under**
13 **IC 33-26.5.**

14 ~~(b)~~ (b) An administrative hearing under this section may be conducted
15 in either of the following ways:

16 (1) As a written records or "paper" hearing conducted by review
17 of written materials and other records:

18 (2) As a telephone or in person hearing conducted by review of
19 written materials and testimony:

20 ~~(c)~~ (b) An individual who contests an income withholding is entitled
21 to:

22 (1) an opportunity to inspect and copy records relating to the
23 overpayment;

24 (2) an opportunity to enter into a written agreement with the
25 department to establish a schedule for repayment of the
26 overpayment; and

27 (3) an opportunity for an administrative hearing conducted by ~~an~~
28 **the administrative law judge of the department: court established**
29 **under IC 33-26.5.**

30 ~~(d)~~ (c) An individual may contest an income withholding on the
31 following grounds:

32 (1) That the existence, past due status, or the amount of the
33 overpayment is incorrect.

34 (2) That the amount withheld was incorrectly calculated.

35 (3) That the overpayment is unenforceable as a matter of law.

36 ~~(e)~~ (d) The department is not required to provide more than one (1)
37 hearing based on the same grounds or objections. If:

38 (1) the department has already provided a hearing on the
39 existence or the amount of the overpayment; and

40 (2) the employee does not have new evidence concerning the
41 overpayment;

42 the department may not repeat the hearing on the existence or amount



1 of the overpayment.

2 ~~(f)~~ **(e)** The department's evidence concerning the existence, past due
3 status, and amount of the overpayment is automatically admitted as
4 evidence in the administrative hearing. ~~and must be considered by the~~
5 ~~administrative law judge.~~

6 SECTION 119. IC 22-4-15-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) An individual
8 shall be ineligible for waiting period or benefit rights for any week with
9 respect to which ~~his the individual's~~ total or partial or part-total
10 unemployment is due to a labor dispute at the factory, establishment,
11 or other premises at which ~~he the individual~~ was last employed.

12 (b) This section shall not apply to an individual if ~~he the individual~~
13 has terminated ~~his the individual's~~ employment, or ~~his the~~
14 ~~individual's~~ employment has been terminated, with the employer
15 involved in the labor dispute; or if the labor dispute which caused ~~his~~
16 ~~the individual's~~ unemployment has terminated and any period
17 necessary to resume normal activities at ~~his the individual's~~ place of
18 employment has elapsed; or if all of the following conditions exist: ~~He~~
19 ~~The individual~~ is not participating in or financing or directly interested
20 in the labor dispute which caused ~~his the individual's~~ unemployment:
21 and ~~he the individual~~ does not belong to a grade or class of workers of
22 which, immediately before the commencement of ~~his the individual's~~
23 unemployment, there were members employed at the same premises as
24 ~~he, the individual,~~ any of whom are participating in or financing or
25 directly interested in the dispute; and ~~he the individual~~ has not
26 voluntarily stopped working, other than at the direction of ~~his the~~
27 ~~individual's~~ employer, in sympathy with employees in some other
28 establishment or factory in which a labor dispute is in progress.

29 (c) If in any case separate branches of work which are commonly
30 conducted as separate businesses in separate premises are conducted
31 in separate departments of the same premises, each such department
32 shall, for the purpose of this section, be deemed to be a separate
33 factory, establishment, or other premises.

34 (d) Upon request of any claimant or employer involved in an issue
35 arising under this section, the deputy shall, and in any other case the
36 deputy may, refer claims of individuals with respect to whom there is
37 an issue of the application of this section to ~~an the administrative law~~
38 ~~judge court established under IC 33-26.5~~ who shall make the initial
39 determination with respect thereto, in accordance with the procedure
40 in IC 22-4-17-3.

41 (e) Notwithstanding any other provisions of this article, an
42 individual shall not be ineligible for waiting period or benefit rights



1 under this section solely by reason of ~~his~~ **the individual's** failure or
 2 refusal to apply for or to accept recall to work or reemployment with an
 3 employer during the continuance of a labor dispute at the factory,
 4 establishment, or other premises of the employer, if the individual's last
 5 separation from the employer occurred prior to the start of the labor
 6 dispute and was permanent or for an indefinite period.

7 SECTION 120. IC 22-4-17-2, AS AMENDED BY P.L.154-2013,
 8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 2. (a) When an individual files an initial claim, the
 10 department shall promptly make a determination of the individual's
 11 status as an insured worker in a form prescribed by the department. A
 12 written notice of the determination of insured status shall be furnished
 13 to the individual promptly. Each such determination shall be based on
 14 and include a written statement showing the amount of wages paid to
 15 the individual for insured work by each employer during the
 16 individual's base period and shall include a finding as to whether such
 17 wages meet the requirements for the individual to be an insured
 18 worker, and, if so, the week ending date of the first week of the
 19 individual's benefit period, the individual's weekly benefit amount, and
 20 the maximum amount of benefits that may be paid to the individual for
 21 weeks of unemployment in the individual's benefit period. For the
 22 individual who is not insured, the notice shall include the reason for the
 23 determination. Unless the individual, within ten (10) days after such
 24 determination was mailed to the individual's last known address, or
 25 otherwise delivered to the individual, asks a hearing thereon before ~~an~~
 26 **the administrative law judge, court established under IC 33-26.5,**
 27 such determination shall be final and benefits shall be paid or denied
 28 in accordance therewith.

29 (b) The department shall promptly furnish each employer in the base
 30 period whose experience or reimbursable account is potentially
 31 chargeable with benefits to be paid to such individual with a notice in
 32 writing of the employer's benefit liability. The notice shall contain the
 33 date, the name and Social Security account number of the individual,
 34 the ending date of the individual's base period, and the week ending
 35 date of the first week of the individual's benefit period. The notice shall
 36 further contain information as to the proportion of benefits chargeable
 37 to the employer's experience or reimbursable account in ratio to the
 38 earnings of such individual from such employer. Unless the employer
 39 within ten (10) days after such notice of benefit liability was mailed to
 40 the employer's last known address, or otherwise delivered to the
 41 employer, asks a hearing thereon before ~~an~~ **the administrative law**
 42 **judge, court established under IC 33-26.5,** such determination shall



1 be final and benefits paid shall be charged in accordance therewith.

2 (c) An employing unit, including an employer, having knowledge
3 of any facts which may affect an individual's eligibility or right to
4 waiting period credits or benefits, shall notify the department of such
5 facts within ten (10) days after the mailing of notice that a former
6 employee has filed an initial or additional claim for benefits on a form
7 prescribed by the department.

8 (d) In addition to the foregoing determination of insured status by
9 the department, the deputy shall, throughout the benefit period,
10 determine the claimant's eligibility with respect to each week for which
11 the claimant claims waiting period credit or benefit rights, the validity
12 of the claimant's claim therefor, and the cause for which the claimant
13 left the claimant's work, or may refer such claim to ~~an~~ **the**
14 **administrative law judge court established under IC 33-26.5** who
15 shall make the initial determination with respect thereto in accordance
16 with the procedure in section 3 of this chapter.

17 (e) In cases where the claimant's benefit eligibility or
18 disqualification is disputed, the department shall promptly notify the
19 claimant and the employer or employers directly involved or connected
20 with the issue raised as to the validity of such claim, the eligibility of
21 the claimant for waiting period credit or benefits, or the imposition of
22 a disqualification period or penalty, or the denial thereof, and of the
23 cause for which the claimant left the claimant's work, of such
24 determination and the reasons thereof.

25 (f) Except as otherwise hereinafter provided in this section
26 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
27 the claimant or such employer, within ten (10) days after the
28 notification required by subsection (e), was mailed to the claimant's or
29 the employer's last known address or otherwise delivered to the
30 claimant or the employer, asks for a hearing before ~~an~~ **the**
31 **administrative law judge court established under IC 33-26.5** thereon,
32 such decision shall be final and benefits shall be paid or denied in
33 accordance therewith.

34 (g) For a notice of disputed administrative determination or decision
35 mailed or otherwise delivered to the claimant or employer either of
36 whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant
37 or employer, within fifteen (15) days after the notification required by
38 subsection (e), was mailed to the claimant's or employer's last known
39 address or otherwise delivered to the claimant or employer, asks for a
40 hearing before ~~an~~ **the** **administrative law judge court established**
41 **under IC 33-26.5** thereon, such decision shall be final and benefits
42 shall be paid or denied in accordance therewith.



1 (h) If a claimant or an employer requests a hearing under subsection
 2 (f) or (g), the request therefor shall be filed with the department in
 3 writing within the prescribed periods as above set forth in this section
 4 and shall be in such form as the department may prescribe. In the event
 5 a hearing is requested by an employer or the department after it has
 6 been administratively determined that benefits should be allowed to a
 7 claimant, entitled benefits shall continue to be paid to said claimant
 8 unless said administrative determination has been reversed by a due
 9 process hearing. Benefits with respect to any week not in dispute shall
 10 be paid promptly regardless of any appeal.

11 (i) A person may not participate on behalf of the department in any
 12 case in which the person is an interested party.

13 (j) Solely on the ground of obvious administrative error appearing
 14 on the face of an original determination, and within the benefit year of
 15 the affected claims, the commissioner, or a representative authorized
 16 by the commissioner to act in the commissioner's behalf, may
 17 reconsider and direct the deputy to revise the original determination so
 18 as to correct the obvious error appearing therein. Time for filing an
 19 appeal and requesting a hearing before ~~an the~~ administrative law judge
 20 **court established under IC 33-26.5** regarding the determinations
 21 handed down pursuant to this subsection shall begin on the date
 22 following the date of revision of the original determination and shall be
 23 filed with the commissioner in writing within the prescribed periods as
 24 above set forth in subsection (c).

25 (k) Notice to the employer and the claimant that the determination
 26 of the department is final if a hearing is not requested shall be
 27 prominently displayed on the notice of the determination which is sent
 28 to the employer and the claimant.

29 (l) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made
 30 by the individual at the time of the claim for benefits, the department
 31 shall not notify the employer of the claimant's current address or
 32 physical location.

33 SECTION 121. IC 22-4-17-3, AS AMENDED BY P.L.175-2009,
 34 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2016]: Sec. 3. (a) Unless such request for hearing is
 36 withdrawn, ~~an the~~ administrative law judge, **court established under**
 37 **IC 33-26.5**, after providing the notice required under section 6 of this
 38 chapter and affording the parties a reasonable opportunity for fair
 39 hearing, shall affirm, modify, or reverse the findings of fact and
 40 decision of the deputy.

41 (b) The parties shall be duly notified of the decision made under
 42 subsection (a) and the reasons therefor, which shall be deemed to be



1 the final decision of the review board. ~~unless within fifteen (15) days~~
 2 ~~after the date of notification or mailing of such decision; an appeal is~~
 3 ~~taken by the commissioner or by any party adversely affected by such~~
 4 ~~decision to the review board.~~

5 SECTION 122. IC 22-4-17-4 IS REPEALED [EFFECTIVE JULY
 6 1, 2016]. Sec. 4. (a) The department shall employ one (1) or more
 7 administrative law judges to hear and decide disputed claims.
 8 Administrative law judges employed under this section are not subject
 9 to IC 4-21.5 or any other statute regulating administrative law judges;
 10 unless specifically provided:

11 (b) The department shall provide at least annually to all
 12 administrative law judges; review board members; and other
 13 individuals who adjudicate claims training concerning:

14 (1) unemployment compensation law;

15 (2) rules for the conduct of hearings and appeals; and

16 (3) rules of conduct for administrative law judges; review board
 17 members; and other individuals who adjudicate claims during a
 18 hearing or other adjudicative process.

19 (c) The department regularly shall monitor the hearings and
 20 decisions of its administrative law judges; review board members; and
 21 other individuals who adjudicate claims to ensure that the hearings and
 22 decisions strictly comply with the law and the rules described in
 23 subsection (b):

24 (d) An individual who does not strictly comply with the law and the
 25 rules described in subsection (b); including the rules of conduct for
 26 administrative law judges; review board members; and other
 27 individuals who adjudicate claims during a hearing or other
 28 adjudicative process; is subject to disciplinary action by the
 29 department; up to and including suspension from or termination of
 30 employment:

31 SECTION 123. IC 22-4-17-5, AS AMENDED BY P.L.175-2009,
 32 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2016]: Sec. 5. (a) The governor shall appoint a review board
 34 composed of three (3) members, not more than two (2) of whom shall
 35 be members of the same political party, with salaries to be fixed by the
 36 governor. The review board shall consist of the chairman and the two
 37 (2) members who shall serve for terms of three (3) years. At least one
 38 (1) member must be admitted to the practice of law in Indiana.

39 (b) Any claim pending before an administrative law judge; and all
 40 proceedings therein; may be transferred to and determined by the
 41 review board upon its own motion; at any time before the
 42 administrative law judge announces a decision. Any claim pending



1 before ~~either an administrative law judge or~~ the review board may be
 2 transferred to the board for determination at the direction of the board.
 3 If the review board considers it advisable to procure additional
 4 evidence, it may direct the taking of additional evidence within a time
 5 period it shall fix. An employer that is a party to a claim transferred to
 6 the review board or the board under this subsection is entitled to
 7 receive notice in accordance with section 6 of this chapter of the
 8 transfer or any other action to be taken under this section before a
 9 determination is made or other action concerning the claim is taken.

10 (c) Any proceeding so removed to the review board shall be heard
 11 by a quorum of the review board in accordance with the requirements
 12 of section 3 of this chapter. The review board shall notify the parties to
 13 any claim of its decision, together with its reasons for the decision.

14 ~~(d) Members of the review board, when acting as administrative law~~
 15 ~~judges, are subject to section 15 of this chapter.~~

16 ~~(e) The review board may on the board's own motion affirm, modify,~~
 17 ~~set aside, remand, or reverse the findings, conclusions, or orders of an~~
 18 ~~administrative law judge on the basis of any of the following:~~

19 (1) Evidence previously submitted to the administrative law
 20 judge.

21 (2) The record of the proceeding after the taking of additional
 22 evidence as directed by the review board.

23 (3) A procedural error by the administrative law judge.

24 SECTION 124. IC 22-4-17-6, AS AMENDED BY P.L.175-2009,
 25 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2016]: Sec. 6. (a) The manner in which disputed claims shall
 27 be presented and the conduct of hearings and appeals, including the
 28 conduct of ~~administrative law judges~~, review board members and other
 29 individuals who adjudicate claims during a hearing or other
 30 adjudicative process, shall be in accordance with rules adopted by the
 31 department for determining the rights of the parties, whether or not the
 32 rules conform to common law or statutory rules of evidence and other
 33 technical rules of procedure.

34 (b) A full and complete record shall be kept of all proceedings in
 35 connection with a disputed claim. The testimony at any hearing upon
 36 a disputed claim need not be transcribed unless the disputed claim is
 37 further appealed.

38 (c) Each party to a hearing ~~before an administrative law judge~~ held
 39 under section 3 of this chapter shall be mailed a notice of the hearing
 40 at least ten (10) days before the date of the hearing specifying the date,
 41 place, and time of the hearing ~~and~~ identifying the issues to be decided.
 42 ~~and providing complete information about the rules of evidence and~~



1 standards of proof that the administrative law judge will use to
 2 determine the validity of the claim:

3 (d) If a hearing so scheduled has not commenced within at least
 4 sixty (60) minutes of the time for which it was scheduled, then a party
 5 involved in the hearing may request a continuance of the hearing. Upon
 6 submission of a request for continuance of a hearing under
 7 circumstances provided in this section, the continuance shall be
 8 granted unless the party requesting the continuance was responsible for
 9 the delay in the commencement of the hearing as originally scheduled.
 10 ~~In the latter instance, the continuance shall be discretionary with the~~
 11 ~~administrative law judge.~~ Testimony or other evidence introduced by
 12 a party at a hearing before ~~an administrative law judge~~ or the review
 13 board that another party to the hearing:

14 (1) is not prepared to meet; and

15 (2) by ordinary prudence could not be expected to have
 16 anticipated;

17 shall be good cause for continuance of the hearing and upon motion
 18 such continuance shall be granted.

19 SECTION 125. IC 22-4-17-7, AS AMENDED BY P.L.108-2006,
 20 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 7. In the discharge of the duties imposed by this
 22 article, any member of the board, the department, the review board, ~~or~~
 23 ~~an administrative law judge~~, or any duly authorized representative of
 24 any of them, shall have power to administer oaths and affirmations,
 25 take depositions, certify to official acts, and issue and serve subpoenas
 26 to compel the attendance of witnesses and the production of books,
 27 papers, correspondence, memoranda, and other records deemed
 28 necessary as evidence in connection with the disputed claim or the
 29 administration of this article.

30 SECTION 126. IC 22-4-17-8, AS AMENDED BY P.L.108-2006,
 31 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 8. In case of contumacy by, or refusal to obey a
 33 subpoena issued to, any person in the administration of this article, ~~any~~
 34 ~~the administrative court of this state within the jurisdiction of which~~
 35 ~~the inquiry is carried on or within the jurisdiction of which said person~~
 36 ~~guilty of contumacy or refusal to obey is found or resides or transacts~~
 37 ~~business; established under IC 33-26.5~~, upon application by the
 38 board, the department, or the review board or a duly authorized
 39 representative of any of these, shall have jurisdiction to issue to such
 40 person an order requiring such person to appear before the board, the
 41 department, the review board, ~~an administrative law judge~~, or the duly
 42 authorized representative of any of these, there to produce evidence if



1 so ordered, or there to give testimony touching the matter in question
 2 or under investigation. Any failure to obey such order of the court may
 3 be punished by said court as a contempt thereof.

4 SECTION 127. IC 22-4-17-8.5, AS AMENDED BY P.L.108-2006,
 5 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 8.5. (a) As used in this section, "interested party"
 7 has the meaning set forth in 646 IAC 3-12-1.

8 (b) ~~An administrative law judge or~~ The review board may hold a
 9 hearing under this chapter by telephone if any of the following
 10 conditions exist:

11 (1) The claimant or the employer is not located in Indiana.

12 (2) An interested party requests without an objection being filed
 13 as provided in 646 IAC 3-12-21 that the hearing be held by
 14 telephone.

15 (3) An interested party cannot appear in person because of an
 16 illness or injury to the party.

17 ~~(4) In the case of a hearing before an administrative law judge, the~~
 18 ~~administrative law judge determines without any interested party~~
 19 ~~filing an objection as provided in 646 IAC 3-12-21 that a hearing~~
 20 ~~by telephone is proper and just.~~

21 ~~(5) In the case of a hearing before the review board;~~ (4) The issue
 22 to be adjudicated does not require both parties to be present.

23 ~~(6) In the case of a hearing before the review board;~~ (5) The
 24 review board has determined that a hearing by telephone is proper
 25 and just.

26 SECTION 128. IC 22-4-17-9, AS AMENDED BY P.L.108-2006,
 27 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2016]: Sec. 9. No person shall be excused from attending and
 29 testifying or from producing books, papers, correspondence,
 30 memoranda, and other records before the board, the department, the
 31 review board, ~~an administrative law judge,~~ or the duly authorized
 32 representative of any of them in obedience to the subpoena of any of
 33 them in any cause or proceeding before any of them on the ground that
 34 the testimony or evidence, documentary or otherwise, required of the
 35 person may tend to incriminate the person or subject the person to a
 36 penalty or forfeiture, but no individual shall be prosecuted or subjected
 37 to any penalty or forfeiture for or on account of any transaction, matter,
 38 or thing concerning which the person is compelled after having claimed
 39 the privilege against self-incrimination to testify or produce evidence,
 40 documentary or otherwise, except that such individual so testifying
 41 shall not be exempt from prosecution and punishment for perjury
 42 committed in so testifying. Any testimony or evidence submitted in due



1 course before the board, the department, the review board, ~~an~~
 2 ~~administrative law judge~~, or any duly authorized representative of any
 3 of them shall be deemed a communication presumptively privileged
 4 with respect to any civil action except actions to enforce the provisions
 5 of this article.

6 SECTION 129. IC 22-4-17-12 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) Any decision of
 8 the review board shall be conclusive and binding as to all questions of
 9 fact. Either party to the dispute or the commissioner may, within thirty
 10 (30) days after notice of intention to appeal as provided in this section,
 11 appeal the decision to the court of appeals of Indiana for errors of law
 12 under the same terms and conditions as govern appeals in ordinary civil
 13 actions.

14 (b) In every appeal the review board shall be made a party appellee,
 15 and the review board shall, at the written request of the appellant and
 16 after payment of the uniform average fee required in subsection (c) is
 17 made, prepare a transcript of all the proceedings had before the
 18 ~~administrative law judge and~~ review board, which shall contain a
 19 transcript of all the testimony, together with all objections and rulings
 20 thereon, documents and papers introduced into evidence or offered as
 21 evidence, and all rulings as to their admission into evidence. The
 22 transcript shall be certified by the chairman of the review board and
 23 shall constitute the record upon appeal.

24 (c) All expenses incurred in the preparation of the transcript shall
 25 be charged to the appellant. The fee for a transcript shall be the actual
 26 cost of preparation that may include the cost of materials, reproduction,
 27 postage, handling, and hours of service rendered by the preparer. The
 28 commissioner shall establish a uniform average fee to be paid by the
 29 appellant before the transcript is prepared. After the transcript is
 30 completed, the actual cost shall be determined and the appellant shall
 31 either pay the amount remaining above the uniform average fee or be
 32 refunded the amount the uniform average fee exceeds the actual cost
 33 of preparation. The commissioner shall establish the procedure by
 34 which transcript fees are determined and paid.

35 (d) Notwithstanding subsections (b) and (c), the appellant may
 36 request that a transcript of all proceedings had before the
 37 ~~administrative law judge and~~ review board be prepared at no cost to the
 38 appellant by filing with the review board, under oath and in writing, a
 39 statement:

- 40 (1) declaring that the appellant is unable to pay for the preparation
 41 of the transcript because of the appellant's poverty;
 42 (2) setting forth the facts that render the appellant unable to pay



1 for the preparation of the transcript; and

2 (3) declaring that the appellant is entitled to redress on appeal.

3 Upon finding that the appellant is unable to pay for the preparation of
4 the transcript because of the appellant's poverty, the review board shall
5 prepare a transcript at no cost to the appellant.

6 (e) The review board may, upon its own motion, or at the request of
7 either party upon a showing of sufficient reason, extend the limit within
8 which the appeal shall be taken, not to exceed fifteen (15) days. In
9 every case in which an extension is granted, the extension shall appear
10 in the record of the proceeding filed in the court of appeals.

11 (f) The appellant shall attach to the transcript an assignment of
12 errors. An assignment of errors that the decision of the review board is
13 contrary to law shall be sufficient to present both the sufficiency of the
14 facts found to sustain the decision and the sufficiency of the evidence
15 to sustain the findings of facts. In any appeal under this section, no
16 bond shall be required for entering the appeal.

17 (g) All appeals shall be considered as submitted upon the date filed
18 in the court of appeals, shall be advanced upon the docket of the court,
19 and shall be determined without delay in the order of priority. Upon the
20 final determination of the appeal, the review board shall enter an order
21 in accordance with the determination, and the decision shall be final.
22 The court of appeals may in any appeal remand the proceeding to the
23 review board for the taking of additional evidence, setting time limits
24 therefor, and ordering the additional evidence to be certified by the
25 review board to the court of appeals to be used in the determination of
26 the cause.

27 (h) Any finding of fact, judgment, conclusion, or final order made
28 by a person with the authority to make findings of fact or law in an
29 action or proceeding under this article is not conclusive or binding and
30 shall not be used as evidence in a separate or subsequent action or
31 proceeding between an individual and the individual's present or prior
32 employer in an action or proceeding brought before an arbitrator, a
33 court, or a judge of this state or the United States regardless of whether
34 the prior action was between the same or related parties or involved the
35 same facts.

36 SECTION 130. IC 22-4-17-15 IS REPEALED [EFFECTIVE JULY
37 1, 2016]. Sec. 15: (a) An administrative law judge may not preside over
38 or otherwise participate in the hearing or disposition of an appeal in
39 which the judge's impartiality might reasonably be questioned;
40 including instances where the judge:

41 (1) has:

42 (A) personal bias or prejudice concerning a party; or



- 1 (B) personal knowledge of disputed evidentiary facts
2 concerning the appeal;
- 3 (2) has served as a lawyer in the matter in controversy; or
4 (3) knows that the judge has any direct or indirect financial or
5 other interest in the subject matter of an appeal or in a party to the
6 appeal.
- 7 (b) Disqualification of an administrative law judge shall be in
8 accordance with the rules adopted by the Indiana unemployment
9 insurance board.
- 10 (c) This subsection does not apply to the disposition of ex parte
11 matters specifically authorized by statute or rule. An administrative law
12 judge may not communicate, directly or indirectly, regarding any
13 substantive issue in the appeal while the appeal is pending, with any
14 party to the appeal; or with any individual who has a direct or indirect
15 interest in the outcome of the appeal; without notice and opportunity
16 for all parties to participate in the communication.
- 17 SECTION 131. IC 22-4-18-4.2 IS REPEALED [EFFECTIVE JULY
18 1, 2016]. Sec. 4.2. Each administrative law judge employed or used by
19 the department of workforce development must be an attorney who is
20 licensed to practice law in Indiana.
- 21 SECTION 132. IC 22-4-19-6, AS AMENDED BY P.L.110-2010,
22 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2016]: Sec. 6. (a) Each employing unit shall keep true and
24 accurate records containing information the department considers
25 necessary. These records are:
- 26 (1) open to inspection; and
27 (2) subject to being copied;
- 28 by an authorized representative of the department at any reasonable
29 time and as often as may be necessary. The department ~~or~~ the review
30 board ~~or an administrative law judge~~ may require from any employing
31 unit any verified or unverified report, with respect to persons employed
32 by it, which is considered necessary for the effective administration of
33 this article.
- 34 (b) Except as provided in subsections (d) and (f), information
35 obtained or obtained from any person in the administration of this
36 article and the records of the department relating to the unemployment
37 tax or the payment of benefits is confidential and may not be published
38 or be open to public inspection in any manner revealing the individual's
39 or the employing unit's identity, except in obedience to an order of a
40 court or as provided in this section.
- 41 (c) A claimant or an employer at a hearing before ~~an administrative~~
42 ~~law judge~~ or the review board shall be supplied with information from



1 the records referred to in this section to the extent necessary for the
 2 proper presentation of the subject matter of the appearance. The
 3 department may make the information necessary for a proper
 4 presentation of a subject matter before an administrative law judge or
 5 the review board available to an agency of the United States or an
 6 Indiana state agency.

7 (d) The department may release the following information:

8 (1) Summary statistical data may be released to the public.

9 (2) Employer specific information known as ES 202 data and data
 10 resulting from enhancements made through the business
 11 establishment list improvement project may be released to the
 12 Indiana economic development corporation only for the following
 13 purposes:

14 (A) The purpose of conducting a survey.

15 (B) The purpose of aiding the officers or employees of the
 16 Indiana economic development corporation in providing
 17 economic development assistance through program
 18 development, research, or other methods.

19 (C) Other purposes consistent with the goals of the Indiana
 20 economic development corporation and not inconsistent with
 21 those of the department, including the purposes of IC 5-28-6-7.

22 (3) Employer specific information known as ES 202 data and data
 23 resulting from enhancements made through the business
 24 establishment list improvement project may be released to the
 25 budget agency and the legislative services agency only for aiding
 26 the employees of the budget agency or the legislative services
 27 agency in forecasting tax revenues.

28 (4) Information obtained from any person in the administration of
 29 this article and the records of the department relating to the
 30 unemployment tax or the payment of benefits for use by the
 31 following governmental entities:

32 (A) department of state revenue; or

33 (B) state or local law enforcement agencies;

34 only if there is an agreement that the information will be kept
 35 confidential and used for legitimate governmental purposes.

36 (e) The department may make information available under
 37 subsection (d)(1), (d)(2), or (d)(3) only:

38 (1) if:

39 (A) data provided in summary form cannot be used to identify
 40 information relating to a specific employer or specific
 41 employee; or

42 (B) there is an agreement that the employer specific



- 1 information released to the Indiana economic development
 2 corporation, the budget agency, or the legislative services
 3 agency will be treated as confidential and will be released only
 4 in summary form that cannot be used to identify information
 5 relating to a specific employer or a specific employee; and
 6 (2) after the cost of making the information available to the
 7 person requesting the information is paid under IC 5-14-3.
- 8 (f) In addition to the confidentiality provisions of subsection (b), the
 9 fact that a claim has been made under IC 22-4-15-1(c)(8) and any
 10 information furnished by the claimant or an agent to the department to
 11 verify a claim of domestic or family violence are confidential.
 12 Information concerning the claimant's current address or physical
 13 location shall not be disclosed to the employer or any other person.
 14 Disclosure is subject to the following additional restrictions:
- 15 (1) The claimant must be notified before any release of
 16 information.
 17 (2) Any disclosure is subject to redaction of unnecessary
 18 identifying information, including the claimant's address.
- 19 (g) An employee:
 20 (1) of the department who recklessly violates subsection (a), (c),
 21 (d), (e), or (f); or
 22 (2) of any governmental entity listed in subsection (d)(4) who
 23 recklessly violates subsection (d)(4);
 24 commits a Class B misdemeanor.
- 25 (h) An employee of the Indiana economic development corporation,
 26 the budget agency, or the legislative services agency who violates
 27 subsection (d) or (e) commits a Class B misdemeanor.
- 28 (i) An employer or agent of an employer that becomes aware that a
 29 claim has been made under IC 22-4-15-1(c)(8) shall maintain that
 30 information as confidential.
- 31 (j) The department may charge a reasonable processing fee not to
 32 exceed two dollars (\$2) for each record that provides information about
 33 an individual's last known employer released in compliance with a
 34 court order under subsection (b).
- 35 SECTION 133. IC 22-4-19-7, AS AMENDED BY P.L.175-2009,
 36 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 7. In any case where an employing unit, or any
 38 officer, member, or agent thereof or any other person having possession
 39 of the records thereof, shall fail or refuse upon demand by the board,
 40 the department, the review board, or an administrative law judge, or the
 41 duly authorized representative of any of them, to produce or permit the
 42 examination or copying of any book, paper, account, record, or other



1 data pertaining to payrolls or employment or ownership of interests or
 2 stock in any employing unit, or bearing upon the correctness of any
 3 contribution report, or for the purpose of making a report as required
 4 by this article where none has been made, then and in that event the
 5 board, the department, the review board, ~~or the administrative law~~
 6 ~~judge~~, or the duly authorized representative of any of them, may by
 7 issuance of a subpoena require the attendance of such employing unit,
 8 or any officer, member, or agent thereof or any other person having
 9 possession of the records thereof, and take testimony with respect to
 10 any such matter and may require any such person to produce any books
 11 or records specified in such subpoena.

12 SECTION 134. IC 22-4-19-8, AS AMENDED BY P.L.108-2006,
 13 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 8. (a) The board, the department, the review
 15 board, ~~or the administrative law judge~~, or the duly authorized
 16 representative of any of them, at any such hearing shall have power to
 17 administer oaths to any such person or persons. When any person
 18 called as a witness by such subpoena, duly signed, and served upon the
 19 witness by any duly authorized person or by the sheriff of the county of
 20 which such person is a resident, or wherein is located the principal
 21 office of such employing unit or wherein such records are located or
 22 kept, shall fail to obey such subpoena to appear before the board, the
 23 department, the review board, ~~or the administrative law judge~~, or the
 24 authorized representative of any of them, or shall refuse to testify or to
 25 answer any questions, or to produce any book, record, paper, or other
 26 data when notified and demanded so to do, such failure or refusal shall
 27 be reported to the attorney general for the state ~~of Indiana~~ who shall
 28 thereupon institute proceedings by the filing of a petition in the name
 29 of the state ~~of Indiana~~ on the relation of the board, in the circuit court
 30 or superior or other court of competent jurisdiction of the county where
 31 such witness resides, or wherein such records are located or kept, to
 32 compel obedience of and by such witness.

33 (b) Such petition shall set forth the facts and circumstances of the
 34 demand for and refusal or failure to permit the examination or copying
 35 of such records or the failure or refusal of such witness to testify in
 36 answer to such subpoena or to produce the records so required by such
 37 subpoena. Such court, upon the filing and docketing of such petition
 38 shall thereupon promptly issue an order to the defendants named in
 39 said petition, to produce forthwith in such court or at a place in such
 40 county designated in such order, for the examination or copying by the
 41 board, the department, the review board, ~~an administrative law judge~~,
 42 or the duly authorized representative of any of them, the records,



1 books, or documents so described and to testify concerning matters
 2 described in such petition. Unless such defendants to such petition
 3 shall appear in said court upon a day specified in such order, which
 4 said day shall be not more than ten (10) days after the date of issuance
 5 of such order, and offer, under oath, good and sufficient reasons why
 6 such examination or copying should not be permitted, or why such
 7 subpoena should not be obeyed, such court shall thereupon deliver to
 8 the board, the department, the review board, ~~the administrative law~~
 9 ~~judge~~, or representative of any of them, for examination or copying, the
 10 records, books and documents so described in said petition and so
 11 produced in such court and shall order said defendants to appear in
 12 answer to the subpoena, and to testify concerning the subject matter of
 13 the inquiry. Any employing unit, or any officer, member, or agent
 14 ~~thereof; of the employing unit~~, or any other persons having possession
 15 of the records thereof who shall willfully disobey such order of the
 16 court after the same shall have been served upon ~~him; the employing~~
 17 ~~unit, any officer, member, or agent of the employing unit, or any~~
 18 ~~other person having possession of the records~~ shall be guilty of
 19 indirect contempt of such court from which such order shall have
 20 issued and may be adjudged in contempt of said court and punished
 21 therefor as provided by law.

22 SECTION 135. IC 22-4-29-4, AS AMENDED BY P.L.108-2006,
 23 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2016]: Sec. 4. If the employing unit protests such assessment,
 25 upon written request it shall have an opportunity to be heard, and such
 26 hearing shall be conducted by a ~~liability the administrative law judge~~
 27 ~~court established under IC 33-26.5~~ pursuant to the provisions of
 28 IC 22-4-32-1 through IC 22-4-32-15. After the hearing the ~~liability~~
 29 ~~administrative law judge court~~ shall immediately notify the employing
 30 unit in writing of the finding, and the assessment, if any, so made shall
 31 be final ~~in the absence of judicial review proceedings as provided in~~
 32 ~~this article~~; thirty (30) days after such notice of appeal is issued.

33 SECTION 136. IC 22-4-29-5 IS REPEALED [EFFECTIVE JULY
 34 1, 2016]. Sec. 5. ~~The finality of such decision of the liability~~
 35 ~~administrative law judge may be stayed for a period of thirty (30) days~~
 36 ~~from the date of service of notice on the department of the appeal of~~
 37 ~~said decision as provided in this article. Such notice must be served~~
 38 ~~within thirty (30) days after notice of the decision of the liability~~
 39 ~~administrative law judge is issued. If judicial review proceedings are~~
 40 ~~not instituted within the time provided for in this article, the finality of~~
 41 ~~said decision shall not be further stayed.~~

42 SECTION 137. IC 22-4-29-13 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) This section
 2 applies to notices given under ~~sections~~ **section 3 4, and 5** of this
 3 chapter.

4 (b) As used in this section, "notices" includes mailings of
 5 assessments, notice of intention to seek judicial review, and warrants.

6 (c) If a notice is served through the United States Postal Service,
 7 three (3) days must be added to a period that commences upon service
 8 of that notice.

9 (d) The filing of a document with the appellate division or review
 10 board is complete on the earliest of the following dates that apply to the
 11 filing:

12 (1) The date on which the document is delivered to the appellate
 13 division or review board.

14 (2) The date of the postmark on the envelope containing the
 15 document if the document is mailed to the appellate division or
 16 review board by the United States Postal Service.

17 (3) The date on which the document is deposited with a private
 18 carrier, as shown by a receipt issued by the carrier, if the
 19 document is sent to the appellate division or review board by a
 20 private carrier.

21 SECTION 138. IC 22-4-32-1, AS AMENDED BY P.L.42-2011,
 22 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 1. ~~A liability~~ **The administrative law judge court**
 24 **established under IC 33-26.5** shall hear all matters pertaining to:

25 (1) the assessment of contributions, penalties, and interest;

26 (2) which accounts, if any, benefits paid, or finally ordered to be
 27 paid, should be charged;

28 (3) successorships, and related matters arising therefrom,
 29 including but not limited to:

30 (A) the transfer of accounts;

31 (B) the determination of rates of contribution; and

32 (C) determinations under IC 22-4-11.5; and

33 (4) claims for refunds of contributions or adjustments thereon in
 34 connection with subsequent contribution payments;

35 for which an employing unit has timely filed a protest under section 4
 36 of this chapter.

37 SECTION 139. IC 22-4-32-2 IS REPEALED [EFFECTIVE JULY
 38 1, 2016]. ~~Sec. 2: In addition to all other powers conferred upon the~~
 39 ~~liability administrative law judge in accordance with this article and the~~
 40 ~~rules issued pursuant to this article, the liability administrative law~~
 41 ~~judge shall have the power to:~~

42 (1) administer oaths and affirmations;



- 1 (2) issue such subpoenas as are provided for by IC 22-4-17-7;
 2 (3) rule upon offers of proof and receive relevant oral or
 3 documentary evidence;
 4 (4) take or cause depositions to be taken whenever the ends of
 5 justice would be served thereby;
 6 (5) regulate the course of a hearing and the conduct of the parties;
 7 (6) hold informal prehearing conferences for the settlement or
 8 simplification of the issues by consent of the parties;
 9 (7) examine or cause to have examined by order such parts of the
 10 books and records of the parties to a proceeding as relate to the
 11 questions in dispute;
 12 (8) dispose of procedural motions, requests for adjustment;
 13 (9) continue any hearing upon his own motion, or upon
 14 application of any interested party for good cause shown; and
 15 (10) make such interlocutory and final orders as are necessary for
 16 the resolving or determination of the issues arising in the cause.

17 SECTION 140. IC 22-4-32-3 IS REPEALED [EFFECTIVE JULY
 18 1, 2016]. Sec. 3. The proceedings before a liability administrative law
 19 judge shall be conducted in accordance with such rules of practice and
 20 procedure as the department may adopt under its rulemaking authority
 21 under IC 22-4-18-1. Any person representing any interested party in the
 22 prosecution or defense of any proceedings before a liability
 23 administrative law judge must be admitted to practice law in the courts
 24 of the state of Indiana, except that persons admitted to practice before
 25 the courts of other states may on special order be permitted to appear
 26 in any proceeding before the liability administrative law judge. This
 27 section shall not be construed to prohibit an interested party from
 28 electing to be heard in his own cause without counsel.

29 SECTION 141. IC 22-4-32-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. Upon receipt of such
 31 protest in writing, the commissioner promptly shall refer the written
 32 protest to the liability administrative law judge **court established**
 33 **under IC 33-26.5** who shall set a date for a hearing **before the liability**
 34 **administrative law judge** and notify the interested parties thereof by
 35 registered mail. Unless such written protest is withdrawn, the liability
 36 administrative law judge, **court**, after affording the parties a reasonable
 37 opportunity for a fair hearing, shall make findings and conclusions,
 38 and, on the basis thereof, affirm, modify, or reverse the initial
 39 determination of the board.

40 SECTION 142. IC 22-4-32-6 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. Any interested party
 42 to the dispute shall mean and include the protesting employing unit, the



1 commissioner, and any person appearing to the liability administrative
2 law judge **court established under IC 33-26.5** to be necessary or
3 indispensable to the determination of the issues involved in the hearing.

4 SECTION 143. IC 22-4-32-7 IS REPEALED [EFFECTIVE JULY
5 1, 2016]. Sec: 7: After the hearing the liability administrative law judge
6 shall as soon as practicable notify the interested parties in writing of the
7 finding and decision of the liability administrative law judge, which
8 shall become final thirty (30) days thereafter in the absence of the filing
9 of a notice of appeal as provided in this chapter.

10 SECTION 144. IC 22-4-32-8 IS REPEALED [EFFECTIVE JULY
11 1, 2016]. Sec: 8: A notice of appeal shall be served on the adverse party
12 at any time before the decision of the liability administrative law judge
13 becomes final; and shall stay the finality of the decision for thirty (30)
14 days from the service of such notice. If such appeal is perfected, further
15 proceedings shall be stayed pending the final determination of said
16 appeal. If an appeal from the decision of the liability administrative law
17 judge is not perfected within the time provided for by this article, no
18 action or proceeding shall be further stayed.

19 SECTION 145. IC 22-4-32-9 IS REPEALED [EFFECTIVE JULY
20 1, 2016]. Sec: 9: (a) Any decision of the liability administrative law
21 judge shall be conclusive and binding as to all questions of fact. An
22 interested party to the dispute may, within thirty (30) days after notice
23 of intention to appeal as herein provided, appeal the decision to the
24 supreme court or the court of appeals solely for errors of law under the
25 same terms and conditions as govern appeals in ordinary civil actions.

26 (b) Any finding of fact, judgment, conclusion, or final order made
27 by a person with the authority to make findings of fact or law in an
28 action or proceeding under this article is not conclusive or binding and
29 shall not be used as evidence in a separate or subsequent action or
30 proceeding between an individual and the individual's present or prior
31 employer in an action or proceeding brought before an arbitrator, a
32 court, or a judge of this state or the United States regardless of whether
33 the prior action was between the same or related parties or involved the
34 same facts.

35 SECTION 146. IC 22-4-32-10 IS REPEALED [EFFECTIVE JULY
36 1, 2016]. Sec: 10: A full and complete record shall be kept of all
37 proceedings had before the liability administrative law judge, and all
38 testimony shall be retained in a suitable media such as an audio
39 recording or a transcription by a court reporter. The liability
40 administrative law judge shall, at the timely written request of the
41 appellant, have a transcript prepared of all the proceedings had before
42 the liability administrative law judge, which shall contain a transcript



1 of all the testimony, together with all objections and rulings thereon;
 2 documents and papers introduced as evidence or offered as evidence;
 3 and all rulings as to their admission into evidence, which said transcript
 4 shall be certified by the liability administrative law judge and shall
 5 constitute the record on appeal.

6 SECTION 147. IC 22-4-32-11 IS REPEALED [EFFECTIVE JULY
 7 1, 2016]. ~~Sec. 11: The department, by rule, may require the appellant~~
 8 ~~to deposit with the department an amount sufficient to pay the actual~~
 9 ~~costs of preparing the transcript of the record of the proceedings before~~
 10 ~~the liability administrative law judge before preparing the same.~~

11 SECTION 148. IC 22-4-32-12 IS REPEALED [EFFECTIVE JULY
 12 1, 2016]. ~~Sec. 12: The appellant shall attach to said transcript an~~
 13 ~~assignment of errors. An assignment of errors that the decision of the~~
 14 ~~liability administrative law judge is contrary to law shall be sufficient~~
 15 ~~to present both the sufficiency of the facts found to sustain the decision;~~
 16 ~~and the sufficiency of the evidence to sustain the finding of facts.~~

17 SECTION 149. IC 22-4-32-13 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. All appeals shall be
 19 submitted upon the date filed in the supreme court or the
 20 **administrative court of appeals, established under IC 33-26.5**, shall
 21 be advanced upon the docket of the court, and shall be determined
 22 without delay in the order of priority. ~~The supreme court or the court~~
 23 ~~of appeals may in any such appeal remand the proceedings to the~~
 24 ~~liability administrative law judge for the taking of additional evidence;~~
 25 ~~setting time limits therefor, and ordering such additional evidence to be~~
 26 ~~certified by the liability administrative law judge to the remanding~~
 27 ~~court to be used in the determination of the cause.~~

28 SECTION 150. IC 22-4-32-19, AS AMENDED BY P.L.175-2009,
 29 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2016]: Sec. 19. (a) The department may grant an application
 31 for adjustment or refund, make an adjustment or refund, or set off a
 32 refund as follows:

33 (1) Not later than four (4) years after the date upon which any
 34 contributions or interest thereon were paid, an employing unit
 35 which has paid such contributions or interest thereon may make
 36 application for an adjustment or a refund of such contributions or
 37 an adjustment thereon in connection with subsequent contribution
 38 payments. The department shall thereupon determine whether or
 39 not such contribution or interest or any portion thereof, was
 40 erroneously paid or wrongfully assessed.

41 (2) The department may grant such application in whole or in part
 42 and may make an adjustment, without interest, in connection with



- 1 subsequent contribution payments or refund such amounts,
 2 without interest, from the fund. Adjustments or refund may be
 3 made on the commissioner's own initiative.
- 4 (3) Any adjustments or refunds of interest or penalties collected
 5 for contributions due under IC 22-4-10-1 shall be charged to and
 6 paid from the special employment and training services fund
 7 created by IC 22-4-25.
- 8 (4) The department may set off any refund available to an
 9 employer under this section against any delinquent contributions,
 10 payments in lieu of contributions, and the interest and penalties,
 11 if any, related to the delinquent payments and assessments.
- 12 (b) Any decision by the department to:
- 13 (1) grant an application for adjustment or refund;
 14 (2) make an adjustment or refund on its own initiative; or
 15 (3) set off a refund;
- 16 constitutes the initial determination referred to in section 4 of this
 17 chapter and is subject to hearing and review as provided in sections 1
 18 through 15 of this chapter.
- 19 ~~(c) If any assessment has become final by virtue of a decision of a~~
 20 ~~liability administrative law judge with the result that no proceeding for~~
 21 ~~judicial review as provided in this article was instituted, no refund or~~
 22 ~~adjustment with respect to such assessment shall be made.~~
- 23 SECTION 151. IC 22-4-32-24, AS AMENDED BY P.L.175-2009,
 24 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 24. (a) This section applies to notices given under
 26 **sections section 4 7, 8, and 9** of this chapter.
- 27 (b) As used in this section, "notices" includes mailings pertaining to:
- 28 (1) the assessment of contributions, penalties, and interest;
 29 (2) the transfer of charges from an employer's account;
 30 (3) successorships and related matters arising from
 31 successorships;
 32 (4) claims for refunds and adjustments;
 33 (5) violations under IC 22-4-11.5;
 34 (6) decisions; and
 35 (7) notices of intention to appeal or seek judicial review.
- 36 (c) If a notice under this chapter is served through the United States
 37 Postal Service, three (3) days must be added to a period that
 38 commences upon service of that notice.
- 39 (d) The filing of a document with the unemployment insurance
 40 appeals division or review board is complete on the earliest of the
 41 following dates that apply to the filing:
 42 (1) The date on which the document is delivered to the



1 unemployment insurance appeals division or review board.
 2 (2) The date of the postmark on the envelope containing the
 3 document if the document is mailed to the unemployment
 4 insurance appeals division or review board by the United States
 5 Postal Service.
 6 (3) The date on which the document is deposited with a private
 7 carrier, as shown by a receipt issued by the carrier, if the
 8 document is sent to the unemployment insurance appeals division
 9 or review board by a private carrier.
 10 SECTION 152. IC 22-4-33-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except for fees
 12 charged under IC 22-4-17-12, no individual claiming benefits may be
 13 charged fees of any kind in a proceeding by the board, the review
 14 board, ~~an administrative law judge~~, or the representative of any of them
 15 or by any court or any officer thereof.
 16 (b) An individual claiming benefits in a proceeding before the
 17 board, the review board, ~~an administrative law judge~~, or a court may be
 18 represented by counsel or other authorized agent, but no counsel or
 19 agent may charge or receive for **his the counsel's or agent's** service
 20 more than an amount approved by the board or review board.
 21 SECTION 153. IC 22-4-34-5, AS AMENDED BY P.L.108-2006,
 22 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 5. A person who knowingly fails to attend and
 24 testify or to answer any lawful inquiry or to produce books, papers,
 25 correspondence, memoranda, and other records, in obedience to a
 26 subpoena of the board, the department, the review board, ~~an~~
 27 ~~administrative law judge~~, or any duly authorized representative of any
 28 of them, commits a Class C misdemeanor. Each day a violation
 29 continues constitutes a separate offense.
 30 SECTION 154. IC 22-8-1.1-35.1, AS AMENDED BY P.L.48-2009,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 35.1. ~~(a)~~ The board in the discharge of its
 33 functions may inspect the premises involved in the dispute.
 34 **(b) The board shall select an administrative law judge under**
 35 **IC 4-21-5-3-9. However, if the board selects any individual who is not**
 36 **a member of the board, that individual must be an attorney. Any**
 37 **attorney so appointed shall receive reasonable compensation as**
 38 **determined by the commissioner.**
 39 SECTION 155. IC 22-9-1-6, AS AMENDED BY P.L.136-2014,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2016]: Sec. 6. (a) The commission shall establish and
 42 maintain a permanent office in the city of Indianapolis.



1 (b) Except as it concerns judicial review, the commission may adopt
2 rules under IC 4-22-2 to implement this chapter.

3 (c) The commission shall formulate policies to effectuate the
4 purposes of this chapter and make recommendations to agencies and
5 officers of the state or local subdivisions thereof to effectuate such
6 policies. The several departments, commissions, divisions, authorities,
7 boards, bureaus, agencies, and officers of the state or any political
8 subdivision or agency thereof shall furnish the commission, upon its
9 request, all records, papers, and information in their possession relating
10 to any matter before the commission.

11 (d) The commission shall receive and investigate complaints
12 alleging discriminatory practices. The commission shall not hold
13 hearings in the absence of a complaint. All investigations of complaints
14 shall be conducted by staff members of the civil rights commission or
15 their agents.

16 (e) The commission may create such advisory agencies and
17 conciliation councils, local or statewide, as will aid in effectuating the
18 purposes of this chapter. The commission may itself, or it may
19 empower these agencies and councils to:

20 (1) study the problems of discrimination in the areas covered by
21 section 2 of this chapter when based on race, religion, color, sex,
22 handicap, national origin, or ancestry; and

23 (2) foster through community effort, or otherwise, good will
24 among the groups and elements of the population of the state.

25 These agencies and councils may make recommendation to the
26 commission for the development of policies and procedures in general.
27 Advisory agencies and conciliation councils created by the commission
28 shall be composed of representative citizens serving without pay, but
29 with reimbursement for reasonable and necessary actual expenses.

30 (f) The commission may issue such publications and such results of
31 investigations and research as in its judgment will tend to promote
32 good will and minimize or eliminate discrimination because of race,
33 religion, color, sex, handicap, national origin, or ancestry.

34 (g) The commission shall prevent any person from discharging,
35 expelling, or otherwise discriminating against any other person because
36 the person filed a complaint, testified in any hearing before this
37 commission, or in any way assisted the commission in any matter under
38 its investigation.

39 (h) The commission may hold hearings, subpoena witnesses, compel
40 their attendance, administer oaths, take the testimony of any person
41 under oath, and require the production for examination of any books
42 and papers relating to any matter under investigation or in question



1 before the commission. The commission may make rules as to the
 2 issuance of subpoenas by individual commissioners. Contumacy or
 3 refusal to obey a subpoena issued under this section shall constitute a
 4 contempt. All hearings shall be held within Indiana at a location
 5 determined by the commission. A citation of contempt may be issued
 6 upon application by the commission to the circuit or superior court in
 7 the county in which the hearing is held or in which the witness resides
 8 or transacts business.

9 (i) ~~The commission may appoint administrative law judges other
 10 than commissioners, when an appointment is deemed necessary by a
 11 majority of the commission. The administrative law judges shall be
 12 members in good standing before the bar of Indiana and shall be
 13 appointed by the chairman of the commission. An administrative law
 14 judge appointed under this subsection shall have the same powers and
 15 duties as a commissioner sitting as an administrative law judge.
 16 However, the administrative law judge may not issue subpoenas.~~

17 (j) (i) The commission shall state its findings of fact after a hearing
 18 and, if the commission finds a person has engaged in an unlawful
 19 discriminatory practice, shall cause to be served on this person an order
 20 requiring the person to cease and desist from the unlawful
 21 discriminatory practice and requiring the person to take further
 22 affirmative action as will effectuate the purposes of this chapter,
 23 including but not limited to the power:

24 (1) to restore complainant's losses incurred as a result of
 25 discriminatory treatment, as the commission may deem necessary
 26 to assure justice; however, except in discriminatory practices
 27 involving veterans, this specific provision when applied to orders
 28 pertaining to employment shall include only wages, salary, or
 29 commissions;

30 (2) to require the posting of notice setting forth the public policy
 31 of Indiana concerning civil rights and respondent's compliance
 32 with the policy in places of public accommodations;

33 (3) to require proof of compliance to be filed by respondent at
 34 periodic intervals; and

35 (4) to require a person who has been found to be in violation of
 36 this chapter and who is licensed by a state agency authorized to
 37 grant a license to show cause to the licensing agency why the
 38 person's license should not be revoked or suspended.

39 When an employer has been found to have committed a discriminatory
 40 practice in employment by failing to employ an applicant on the basis
 41 that the applicant is a veteran, the order to restore the veteran's losses
 42 may include placing the veteran in the employment position with the



1 employer for which the veteran applied.

2 ~~(k)~~ **(j)** Judicial review of a cease and desist order or other
3 affirmative action as referred to in this chapter may be obtained under
4 IC 22-9-8. If no proceeding to obtain judicial review is instituted within
5 thirty (30) days from receipt of notice by a person that an order has
6 been made by the commission, the commission, if it determines that the
7 person upon whom the cease and desist order has been served is not
8 complying or is making no effort to comply, may obtain a decree of a
9 court for the enforcement of the order in circuit or superior court upon
10 showing that the person is subject to the commission's jurisdiction and
11 resides or transacts business within the county in which the petition for
12 enforcement is brought.

13 ~~(l)~~ **(k)** If, upon all the evidence, the commission shall find that a
14 person has not engaged in any unlawful practice or violation of this
15 chapter, the commission shall state its findings of facts and shall issue
16 and cause to be served on the complainant an order dismissing the
17 complaint as to the person.

18 ~~(m)~~ **(l)** The commission may furnish technical assistance requested
19 by persons subject to this chapter to further compliance with this
20 chapter or with an order issued thereunder.

21 ~~(n)~~ **(m)** The commission shall promote the creation of local civil
22 rights agencies to cooperate with individuals, neighborhood
23 associations, and state, local, and other agencies, both public and
24 private, including agencies of the federal government and of other
25 states.

26 ~~(o)~~ **(n)** The commission may reduce the terms of conciliation agreed
27 to by the parties to writing (to be called a consent agreement) that the
28 parties and a majority of the commissioners shall sign. When signed,
29 the consent agreement shall have the same effect as a cease and desist
30 order issued under subsection ~~(j)~~: **(i)**. If the commission determines that
31 a party to the consent agreement is not complying with it, the
32 commission may obtain enforcement of the consent agreement in a
33 circuit or superior court upon showing that the party is not complying
34 with the consent agreement and the party is subject to the commission's
35 jurisdiction and resides or transacts business within the county in
36 which the petition for enforcement is brought.

37 ~~(p)~~ **(o)** In lieu of investigating a complaint and holding a hearing
38 under this section, the commission may issue an order based on
39 findings and determinations by the federal Department of Housing and
40 Urban Development or the federal Equal Employment Opportunity
41 Commission concerning a complaint that has been filed with one (1) of
42 these federal agencies and with the commission. The commission shall



1 adopt by rule standards under which the commission may issue such an
2 order.

3 ~~(q)~~ **(p)** Upon notice that a complaint is the subject of an action in a
4 federal court, the commission shall immediately cease investigation of
5 the complaint and may not conduct hearings or issue findings of fact or
6 orders concerning that complaint.

7 SECTION 156. IC 22-9-1-17, AS AMENDED BY P.L.100-2012,
8 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2016]: Sec. 17. (a) If a timely election is made under section
10 16 of this chapter, the complainant may file a civil action in a circuit or
11 superior court having jurisdiction in the county in which a
12 discriminatory practice allegedly occurred.

13 (b) If the court finds that a discriminatory practice has occurred the
14 court may grant the relief allowed under ~~IC 22-9-1-6(j)~~; **section 6(i) of**
15 **this chapter.**

16 (c) A civil action filed under this section must be tried by the court
17 without benefit of a jury.

18 SECTION 157. IC 22-9-5-26, AS AMENDED BY P.L.100-2012,
19 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2016]: Sec. 26. The remedies available regarding complaints
21 directed against a covered entity under this chapter are limited to the
22 remedies provided under ~~IC 22-9-1-6(j)~~; **IC 22-9-1-6(i).**

23 SECTION 158. IC 24-4.5-6-107, AS AMENDED BY P.L.137-2014,
24 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2016]: Sec. 107. (1) Except as otherwise provided,
26 IC 4-21.5-3 governs all agency action taken by the department under
27 this chapter or IC 24-4.5-3-501 through IC 24-4.5-3-513. ~~All~~
28 ~~proceedings for administrative review under IC 4-21.5-3 or judicial~~
29 ~~review under IC 4-21.5-5 shall be held in Marion County.~~ The
30 provisions of IC 4-22-2 prescribing procedures for the adoption of rules
31 by agencies apply to the adoption of rules by the department of
32 financial institutions under this article. However, if the department
33 declares an emergency in the document containing the rule, the
34 department may adopt rules permitted by this chapter under
35 IC 4-22-2-37.1.

36 (2) A rule under subsection (1) adopted under IC 4-22-2-37.1
37 expires on the date the department next adopts a rule under the statute
38 authorizing or requiring the rule.

39 SECTION 159. IC 25-1-7-14, AS AMENDED BY P.L.134-2013,
40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2016]: Sec. 14. (a) Notwithstanding any other law, if the board
42 of a regulated occupation believes that a person who is not licensed,



1 certified, or registered under this title is engaged in or is believed to be
 2 engaged in activities for which a license, certification, or registration
 3 is required under this title, the board may do the following:

4 (1) File a complaint with the attorney general, who shall
 5 investigate and may file:

6 (A) with notice; or

7 (B) without notice, if the attorney general determines that the
 8 person is engaged in activities that may affect an individual's
 9 health or safety;

10 a motion for a cease and desist order with the appropriate board.

11 For purposes of this subdivision, the board may designate a board
 12 member or an employee of the Indiana professional licensing
 13 agency to act on behalf or in the name of the board.

14 (2) Upon review of the attorney general's motion for a cease and
 15 desist order, the board may issue an order requiring the affected
 16 person to show cause why the person should not be ordered to
 17 cease and desist from such activities. The show cause order must
 18 set forth a time and place for a hearing at which the affected
 19 person may appear and show cause as to why the person should
 20 not be subject to licensing, certification, or registration under this
 21 title. For purposes of this subdivision, the board may designate a
 22 board member to act on behalf or in the name of the board.

23 (b) If the board, after a hearing, determines that the activities in
 24 which the person is engaged are subject to licensing, certification, or
 25 registration under this title, the board may issue a cease and desist
 26 order that must describe the person and activities that are the subject
 27 of the order.

28 (c) A hearing conducted under this section must comply with the
 29 requirements under IC 4-21.5.

30 (d) A cease and desist order issued under this section is enforceable
 31 in the circuit or superior courts. A person who is enjoined under a
 32 cease and desist order and who violates the order shall be punished for
 33 contempt of court.

34 (e) A cease and desist order issued under this section does not
 35 relieve any person from prosecution under any other law.

36 (f) In addition to the powers specified in subsections (a) through (e),
 37 the state board of funeral and cemetery service may:

38 (1) file complaints under subsection (a)(1);

39 (2) issue show cause orders under subsection (a)(2); and

40 (3) hold hearings and issue cease and desist orders under
 41 subsection (b);

42 in relation to persons who are engaged in or believed to be engaged in



1 activities for which a certificate of authority is required under
2 IC 30-2-13.

3 (g) Cease and desist orders may be issued by the state board of
4 funeral and cemetery service under subsection (f) for failure to possess
5 a certificate of authority even if the person has a valid:

- 6 (1) funeral home license;
- 7 (2) funeral director license;
- 8 (3) embalmer license; or
- 9 (4) cemetery registration.

10 (h) A cease and desist order issued under this section by a board
11 defined in IC 25-1-11-1 may also include an order for the person to pay
12 consumer restitution to a person who suffered damages as a result of
13 the activities that were the basis for the cease and desist order.

14 (i) A cease and desist order issued under this section may also
15 include an order for repayment of the costs of the proceedings. The
16 person's ability to pay must be considered when costs are assessed.
17 These costs are limited to costs for the following:

- 18 (1) Court reporters.
- 19 (2) Transcripts.
- 20 (3) Certification of documents.
- 21 (4) Photo duplication.
- 22 (5) Witness attendance and mileage fees.
- 23 (6) Postage.
- 24 (7) Expert witnesses.
- 25 (8) Depositions.
- 26 (9) Notarizations.
- 27 ~~(10) Administrative law judges.~~
- 28 ~~(11)~~ (10) Real estate review appraisals.

29 SECTION 160. IC 25-1-9-15 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. Practitioners who
31 have been subjected to disciplinary sanctions may be required by a
32 board to pay for the costs of the proceeding. The practitioner's ability
33 to pay shall be considered when costs are assessed. If the practitioner
34 fails to pay the costs, a suspension may not be imposed solely upon the
35 practitioner's inability to pay the amount assessed. These costs are
36 limited to costs for the following:

- 37 (1) Court reporters.
- 38 (2) Transcripts.
- 39 (3) Certification of documents.
- 40 (4) Photo duplication.
- 41 (5) Witness attendance and mileage fees.
- 42 (6) Postage.



1 (7) Expert witnesses.
 2 (8) Depositions.
 3 (9) Notarizations.
 4 ~~(10) Administrative law judges.~~
 5 SECTION 161. IC 25-1-11-18, AS AMENDED BY P.L.105-2009,
 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2016]: Sec. 18. A practitioner who has been subjected to
 8 disciplinary sanctions may be required by a board to pay the costs of
 9 the proceeding. The practitioner's ability to pay shall be considered
 10 when costs are assessed. If the practitioner fails to pay the costs, a
 11 suspension may not be imposed solely upon the practitioner's inability
 12 to pay the amount assessed. These costs are limited to costs for the
 13 following:
 14 (1) Court reporters.
 15 (2) Transcripts.
 16 (3) Certification of documents.
 17 (4) Photo duplication.
 18 (5) Witness attendance and mileage fees.
 19 (6) Postage.
 20 (7) Expert witnesses.
 21 (8) Depositions.
 22 (9) Notarizations.
 23 ~~(10) Administrative law judges.~~
 24 ~~(H)~~ **(10)** Real estate review appraisals, if applicable.
 25 SECTION 162. IC 25-17.6-9-1, AS AMENDED BY P.L.99-2005,
 26 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2016]: Sec. 1. If requested, an administrative review of a
 28 determination made by the board under IC 25-17.6-3-7, IC 25-17.6-4,
 29 or IC 25-17.6-8-1 shall be conducted before ~~an administrative law~~
 30 ~~judge appointed by the natural resources commission or the director of~~
 31 ~~the division of hearings under IC 14-10-2-2.~~ **the administrative court**
 32 **established under IC 33-26.5.**
 33 SECTION 163. IC 25-17.6-9-3 IS REPEALED [EFFECTIVE JULY
 34 1, 2016]. Sec. 3: ~~An administrative law judge appointed under this~~
 35 ~~chapter is the ultimate authority for the board under IC 4-21.5-5.~~
 36 SECTION 164. IC 25-17.6-9-4 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2016]. Sec. 4. A party who is
 38 dissatisfied with a final order rendered by ~~an the administrative law~~
 39 ~~judge court established under IC 33-26.5~~ may take judicial review
 40 under IC 4-21.5-5.
 41 SECTION 165. IC 25-31.5-9-1, AS AMENDED BY P.L.99-2005,
 42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2016]: Sec. 1. If requested, an administrative review of a
 2 determination made by the board under IC 25-31.5-3, IC 25-31.5-4, or
 3 IC 25-31.5-8 shall be conducted before ~~an administrative law judge~~
 4 ~~appointed by the natural resources commission or the director of the~~
 5 ~~division of hearings under IC 14-10-2-2:~~ **the administrative court**
 6 **established under IC 33-26.5.**

7 SECTION 166. IC 25-31.5-9-3 IS REPEALED [EFFECTIVE JULY
 8 1, 2016]. ~~Sec. 3: An administrative law judge appointed under section~~
 9 ~~1 of this chapter is the ultimate authority for the board for purposes of~~
 10 ~~IC 4-21.5-3-27, and the order of the administrative law judge disposing~~
 11 ~~of a proceeding is final.~~

12 SECTION 167. IC 25-31.5-9-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. A party who is
 14 dissatisfied with a final order rendered by ~~an the administrative law~~
 15 ~~judge court established under IC 33-26.5~~ in a proceeding under this
 16 chapter may obtain judicial review of the final order under IC 4-21.5-5.

17 SECTION 168. IC 25-36.5-1-3.2, AS AMENDED BY P.L.57-2013,
 18 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2016]: Sec. 3.2. (a) This section refers to an adjudicative
 20 proceeding against:

- 21 (1) a timber buyer; or
- 22 (2) a person who cuts timber but is not a timber buyer (referred to
- 23 as a "timber cutter" in this section).

24 (b) The department may under IC 4-21.5-3-8 commence a
 25 proceeding against a timber buyer or a timber cutter if there is reason
 26 to believe that:

- 27 (1) the timber buyer or timber cutter has acquired timber from a
- 28 timber grower under a written contract for the sale of the timber
- 29 without payment having been made to the timber grower as
- 30 specified in the contract; or

- 31 (2) if:
 - 32 (A) there is no written contract for the sale of the timber; or
 - 33 (B) there is a written contract for the sale of the timber but the
 - 34 contract does not set forth the purchase price for the timber;
 - 35 the timber buyer or timber cutter has cut timber or acquired
 - 36 timber from the timber grower without payment having been
 - 37 made to the timber grower equal to the value of the timber as
 - 38 determined under IC 26-1-2.

39 (c) A proceeding may be commenced under this section at the
 40 request of a timber grower.

41 (d) The necessary parties to a proceeding initiated under this section
 42 are:



- 1 (1) the timber grower; and
 2 (2) the timber buyer or timber cutter.
- 3 (e) After the commencement of a proceeding under this section
 4 through the service of a complaint under IC 4-21.5-3-8, a party to the
 5 proceeding may move for the joinder of any of the following persons
 6 having a relationship to the site or subject of the complaint:
- 7 (1) The surety of the timber buyer.
 8 (2) A timber buyer.
 9 (3) A timber cutter.
 10 (4) A landowner.
 11 (5) An owner of land adjacent to the land from which the timber
 12 was cut.
 13 (6) A consultant receiving a fee for services related to the timber.
 14 (7) A professional surveyor performing an American Land Title
 15 Association and American Congress on Surveying and Mapping
 16 (ALTA/ACSM) land title survey.
 17 (8) The department of natural resources, if the department has a
 18 relationship to the site or subject of the complaint as a landowner
 19 or owner of adjacent land.
- 20 (f) The complaint served under IC 4-21.5-3-8 to commence a
 21 proceeding under this section may seek the following:
- 22 (1) Damages in compensation for damage actually resulting from
 23 the wrongful activities of a timber buyer or timber cutter.
 24 (2) Damages equal to three (3) times the stumpage value of any
 25 timber that is wrongfully cut or appropriated without payment.
- 26 (g) Notwithstanding subsection (f), the liability on the surety bond
 27 of a timber cutter is limited to the value of any timber wrongfully cut
 28 or appropriated.
- 29 (h) A proceeding under this section is governed by IC 4-21.5.
 30 Before a hearing is convened in the proceeding, a prehearing
 31 conference shall be conducted to provide the parties with an
 32 opportunity for settlement, including an opportunity for mediation.
- 33 (i) In determining the site for a hearing in a proceeding under this
 34 section, the administrative ~~law judge~~ **court established under**
 35 **IC 33-26.5** shall consider the convenience of the parties.
- 36 (j) A final agency action in a proceeding under this section must
 37 address all issues of damage and responsibility and, after the
 38 completion of the opportunity for judicial review, may be enforced in
 39 a civil proceeding as a judgment.
- 40 SECTION 169. IC 28-1-29-14, AS AMENDED BY P.L.35-2010,
 41 SECTION 136, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: Sec. 14. Any applicant for a license



1 aggrieved by a decision of the department pursuant to this chapter may
 2 file a petition for review as prescribed in IC 4-21.5. Except as
 3 otherwise provided, IC 4-21.5 applies to and governs all agency action
 4 taken by the department under this chapter. All proceedings for
 5 ~~administrative review under IC 4-21.5-3~~ or judicial review under
 6 IC 4-21.5-5 shall be held in Marion County.

7 SECTION 170. IC 28-7-5-15.1, AS ADDED BY P.L.35-2010,
 8 SECTION 175, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2016]: Sec. 15.1. Except as otherwise provided,
 10 IC 4-21.5 applies to and governs all agency action taken by the
 11 department under this chapter. A proceeding for ~~administrative review~~
 12 ~~under IC 4-21.5-3~~ or judicial review under IC 4-21.5-5 must be held in
 13 Marion County.

14 SECTION 171. IC 28-8-4-52, AS AMENDED BY P.L.35-2010,
 15 SECTION 184, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2016]: Sec. 52. Except as otherwise provided,
 17 IC 4-21.5 applies to and governs all agency action taken by the
 18 department under this chapter. A proceeding for ~~administrative review~~
 19 ~~under IC 4-21.5-3~~ or judicial review under IC 4-21.5-5 must be held in
 20 Marion County.

21 SECTION 172. IC 28-8-5-21.1, AS ADDED BY P.L.35-2010,
 22 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2016]: Sec. 21.1. Except as otherwise provided,
 24 IC 4-21.5 applies to and governs all agency action taken by the
 25 department under this chapter. A proceeding for ~~administrative review~~
 26 ~~under IC 4-21.5-3~~ or judicial review under IC 4-21.5-5 must be held in
 27 Marion County.

28 SECTION 173. IC 33-26-6-0.2, AS ADDED BY P.L.220-2011,
 29 SECTION 531, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2016]: Sec. 0.2. (a) Notwithstanding
 31 IC 33-3-5-2, as amended by P.L.198-2001 (before its repeal, now
 32 codified in this chapter), the tax court has exclusive jurisdiction over
 33 any case that arises under the tax laws of this state and that is an initial
 34 appeal initiated after December 31, 2001, of a final determination made
 35 by the department of local government finance if the following apply:

36 (1) The tax court would have had jurisdiction over the case if the
 37 appeal had been initiated before January 1, 2002.

38 (2) P.L.198-2001 does not provide that the final determination is
 39 subject to appeal to the Indiana board of tax review.

40 (b) IC 33-3-5-14 (as amended by P.L.198-2001 before its repeal,
 41 now codified at section 3 of this chapter), and IC 33-3-5-14.2 (as added
 42 by P.L.198-2001 before its repeal, now codified at IC 33-26-7-1,



1 IC 33-26-7-2, IC 33-26-7-3 (**before its repeal**), and IC 33-26-7-4),
 2 IC 33-3-5-14.5 (as added by P.L.198-2001, before its repeal, now
 3 codified at section 5 of this chapter), and IC 33-3-5-14.8 (as added by
 4 P.L.198-2001, before its repeal, now codified at section 6 of this
 5 chapter) apply to appeals initiated under IC 6-1.1-15-5, as amended by
 6 P.L.198-2001, of final determinations of the Indiana board of tax
 7 review issued after December 31, 2001.

8 SECTION 174. IC 33-26-7-3 IS REPEALED [EFFECTIVE JULY
 9 1, 2016]. ~~Sec. 3. Discovery conducted under section 2 of this chapter
 10 is limited to production of documents from the administrative law
 11 judge presiding over the review under IC 6-1.1-15-3. The
 12 administrative law judge may not be summoned to testify before the tax
 13 court unless verified proof is offered to the tax court that the
 14 impartiality of the administrative law judge was compromised
 15 concerning the review.~~

16 SECTION 175. IC 35-47-11.1-4, AS AMENDED BY P.L.147-2014,
 17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2016]: Sec. 4. This chapter may not be construed to prevent
 19 any of the following:

- 20 (1) A law enforcement agency of a political subdivision from
 21 enacting and enforcing regulations pertaining to firearms,
 22 ammunition, or firearm accessories issued to or used by law
 23 enforcement officers in the course of their official duties.
 24 (2) Subject to IC 34-28-7-2, an employer from regulating or
 25 prohibiting the employees of the employer from carrying firearms
 26 and ammunition in the course of the employee's official duties.
 27 (3) A court ~~or administrative law judge~~ from hearing and
 28 resolving any case or controversy or issuing any opinion or order
 29 on a matter within the jurisdiction of the court. ~~or judge.~~
 30 (4) The enactment or enforcement of generally applicable zoning
 31 or business ordinances that apply to firearms businesses to the
 32 same degree as other similar businesses. However, a provision of
 33 an ordinance that is designed or enforced to effectively restrict or
 34 prohibit the sale, purchase, transfer, manufacture, or display of
 35 firearms, ammunition, or firearm accessories that is otherwise
 36 lawful under the laws of this state is void. A unit (as defined in
 37 IC 36-1-2-23) may not use the unit's planning and zoning powers
 38 under IC 36-7-4 to prohibit the sale of firearms within a
 39 prescribed distance of any other type of commercial property or
 40 of school property or other educational property.
 41 (5) Subject to IC 35-47-16-1, the enactment or enforcement of a
 42 provision prohibiting or restricting the possession of a firearm in



- 1 any building that contains the courtroom of a circuit, superior,
 2 city, town, or small claims court. However, if a portion of the
 3 building is occupied by a residential tenant or private business,
 4 any provision restricting or prohibiting the possession of a firearm
 5 does not apply to the portion of the building that is occupied by
 6 the residential tenant or private business, or to common areas of
 7 the building used by a residential tenant or private business.
- 8 (6) The enactment or enforcement of a provision prohibiting or
 9 restricting the intentional display of a firearm at a public meeting.
- 10 (7) The enactment or enforcement of a provision prohibiting or
 11 restricting the possession of a firearm in a public hospital
 12 corporation that contains a secure correctional health unit that is
 13 staffed by a law enforcement officer twenty-four (24) hours a day.
- 14 (8) The imposition of any restriction or condition placed on a
 15 person participating in:
- 16 (A) a community corrections program (IC 11-12-1);
 17 (B) a forensic diversion program (IC 11-12-3.7); or
 18 (C) a pretrial diversion program (IC 33-39-1).
- 19 (9) The enforcement or prosecution of the offense of criminal
 20 recklessness (IC 35-42-2-2) involving the use of a firearm.
- 21 (10) For an event occurring on property leased from a political
 22 subdivision or municipal corporation by the promoter or organizer
 23 of the event:
- 24 (A) the establishment, by the promoter or organizer, at the
 25 promoter's or organizer's own discretion, of rules of conduct or
 26 admission upon which attendance at or participation in the
 27 event is conditioned; or
 28 (B) the implementation or enforcement of the rules of conduct
 29 or admission described in clause (A) by a political subdivision
 30 or municipal corporation in connection with the event.
- 31 (11) The enactment or enforcement of a provision prohibiting or
 32 restricting the possession of a firearm in a hospital established
 33 and operated under IC 16-22-2 or IC 16-23.
- 34 (12) A unit from using the unit's planning and zoning powers
 35 under IC 36-7-4 to prohibit the sale of firearms within two
 36 hundred (200) feet of a school by a person having a business that
 37 did not sell firearms within two hundred (200) feet of a school
 38 before April 1, 1994.
- 39 (13) Subject to IC 35-47-16-1, a unit (as defined in IC 36-1-2-23)
 40 from enacting or enforcing a provision prohibiting or restricting
 41 the possession of a firearm in a building owned or administered
 42 by the unit if:



- 1 (A) metal detection devices are located at each public entrance
- 2 to the building;
- 3 (B) each public entrance to the building is staffed by at least
- 4 one (1) law enforcement officer:
- 5 (i) who has been adequately trained to conduct inspections
- 6 of persons entering the building by use of metal detection
- 7 devices and proper physical pat down searches; and
- 8 (ii) when the building is open to the public; and
- 9 (C) each:
- 10 (i) individual who enters the building through the public
- 11 entrance when the building is open to the public; and
- 12 (ii) bag, package, and other container carried by the
- 13 individual;
- 14 is inspected by a law enforcement officer described in clause
- 15 (B).

16 However, except as provided in subdivision (5) concerning a
 17 building that contains a courtroom, a unit may not prohibit or
 18 restrict the possession of a handgun under this subdivision in a
 19 building owned or administered by the unit if the person who
 20 possesses the handgun has been issued a valid license to carry the
 21 handgun under IC 35-47-2.

22 SECTION 176. IC 36-1-9.5-51 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 51. (a) If a contractor
 24 is dissatisfied with the decision under section 50 of this chapter, the
 25 contractor may make a written request by certified or registered mail
 26 or personal service within fifteen (15) days after receiving the decision
 27 for an appeal hearing.

28 (b) A contractor shall send a request under this section to the
 29 prequalification administrator. ~~After receiving the request, the entity~~
 30 ~~shall serve written notice of the date, place, and time of the hearing and~~
 31 ~~written notice of the appointment of an administrative law judge on the~~
 32 ~~contractor.~~

33 (c) A hearing shall be held not later than fourteen (14) days after the
 34 receipt of the request **before the administrative court established**
 35 **under IC 33-26.5**, unless otherwise ordered by ~~an administrative law~~
 36 ~~judge: the court.~~

37 (d) At the hearing, the contractor bears the burden of proof.

38 SECTION 177. IC 36-8-8-13.1, AS AMENDED BY P.L.35-2012,
 39 SECTION 130, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2016]: Sec. 13.1. (a) If:

- 41 (1) the local board has determined under this chapter that a
- 42 covered impairment exists and the safety board has determined



1 that there is no suitable and available work within the department,
 2 considering reasonable accommodation to the extent required by
 3 the Americans with Disabilities Act; or

4 (2) the fund member has filed an appeal under section 12.7(o) of
 5 this chapter;

6 the local board shall submit the local board's determinations and the
 7 safety board's determinations to the system board's director.

8 (b) Whenever a fund member is determined to have an impairment
 9 under section 12.7(i) of this chapter, the system board's director shall
 10 initiate a review of the default award not later than sixty (60) days after
 11 the director learns of the default award.

12 (c) After the system board's director receives the determinations
 13 under subsection (a) or initiates a review under subsection (b), the fund
 14 member must submit to an examination by a medical authority selected
 15 by the system board. The authority shall determine if there is a covered
 16 impairment. With respect to a fund member who is covered by sections
 17 12.5 and 13.5 of this chapter, the authority shall determine the degree
 18 of impairment. The system board shall adopt rules to establish
 19 impairment standards, such as the impairment standards contained in
 20 the United States Department of Veterans Affairs Schedule for Rating
 21 Disabilities. The report of the examination shall be submitted to the
 22 system board's director. If a fund member refuses to submit to an
 23 examination, the authority may find that no impairment exists.

24 (d) The system board's director shall review the medical authority's
 25 report and the local board's determinations and issue an initial
 26 determination within sixty (60) days after receipt of the local board's
 27 determinations. The system board's director shall notify the local board,
 28 the safety board, and the fund member of the initial determination. The
 29 following provisions apply if the system board's director does not issue
 30 an initial determination within sixty (60) days and if the delay is not
 31 attributable to the fund member or the safety board:

32 (1) In the case of a review initiated under subsection (a)(1):

33 (A) the determinations of the local board and the chief of the
 34 police or fire department are considered to be the initial
 35 determination; and

36 (B) for purposes of section 13.5(d) of this chapter, the fund
 37 member is considered to be totally impaired.

38 (2) In the case of an appeal submitted under subsection (a)(2), the
 39 statements made by the fund member under section 12.7(o) of this
 40 chapter are considered to be the initial determination.

41 (3) In the case of a review initiated under subsection (b), the
 42 initial determination is the impairment determined under section



- 1 12.7(i) of this chapter.
- 2 (e) The fund member, the safety board, or the local board may
- 3 object in writing to the director's initial determination within fifteen
- 4 (15) days after the determination is issued. If no written objection is
- 5 filed, the initial determination becomes the final order of the system
- 6 board. If a timely written objection is filed, the system board shall issue
- 7 the final order after a hearing. ~~Unless an administrative law judge~~
- 8 ~~orders a waiver or an extension of the period for cause shown,~~ The final
- 9 order shall be issued not later than one hundred eighty (180) days after
- 10 the date of receipt of the local board's determination or the date the
- 11 system board's director initiates a review under subsection (b). The
- 12 following provisions apply if a final order is not issued within the time
- 13 limit described in this subsection and if the delay is not attributable to
- 14 the fund member or the chief of the police or fire department:
- 15 (1) In the case of a review initiated under subsection (a)(1):
- 16 (A) the determinations of the local board and the chief of the
- 17 police or fire department are considered to be the final order;
- 18 and
- 19 (B) for purposes of section 13.5(d) of this chapter, the fund
- 20 member is considered to be totally impaired.
- 21 (2) In the case of an appeal submitted under subsection (a)(2), the
- 22 statements made by the fund member under section 12.7(o) of this
- 23 chapter are considered to be the final order.
- 24 (3) In the case of a review initiated under subsection (b), the
- 25 impairment determined under section 12.7(i) of this chapter is
- 26 considered to be the final order.
- 27 (f) If the system board approves the director's initial determination,
- 28 then the system board shall issue a final order adopting the initial
- 29 determination. The local board and the chief of the police or fire
- 30 department shall comply with the initial determination. If the system
- 31 board does not approve the initial determination, the system board may
- 32 receive additional evidence on the matter before issuing a final order.
- 33 (g) Appeals of the system board's final order may be made under
- 34 IC 4-21.5.
- 35 (h) The transcripts, records, reports, and other materials compiled
- 36 under this section must be retained in accordance with the procedures
- 37 specified in section 12.7(p) of this chapter.
- 38 SECTION 178. IC 36-8-8-13.4, AS AMENDED BY P.L.35-2012,
- 39 SECTION 131, IS AMENDED TO READ AS FOLLOWS
- 40 [EFFECTIVE JULY 1, 2016]: Sec. 13.4. (a) This section applies only
- 41 to a fund member or survivor of a fund member who is receiving a
- 42 disability benefit under section 13.3(b) of this chapter.



1 (b) A fund member or survivor of a fund member described in
 2 subsection (a) may file an application, in accordance with this section,
 3 requesting a determination that:

4 (1) the member's covered impairment, as determined under
 5 section 13.3(b) of this chapter, was:

6 (A) the direct result of:

7 (i) a personal injury that occurred while the fund member
 8 was on duty;

9 (ii) a personal injury that occurred while the fund member
 10 was off duty and was responding to an offense or a reported
 11 offense, in the case of a police officer, or an emergency or
 12 reported emergency for which the fund member was trained,
 13 in the case of a firefighter; or

14 (iii) an occupational disease (as defined in IC 22-3-7-10),
 15 including a duty related disease that is also included within
 16 clause (B);

17 (B) a duty related disease, which for purposes of this section,
 18 means a disease arising out of the fund member's employment.

19 A disease is considered to arise out of the fund member's
 20 employment if it is apparent to the rational mind, upon
 21 consideration of all of the circumstances, that:

22 (i) there is a connection between the conditions under which
 23 the fund member's duties are performed and the disease;

24 (ii) the disease can be seen to have followed as a natural
 25 incident of the fund member's duties as a result of the
 26 exposure occasioned by the nature of the fund member's
 27 duties; and

28 (iii) the disease can be traced to the fund member's
 29 employment as the proximate cause; or

30 (C) a disability presumed incurred in the line of duty under
 31 IC 5-10-13 or IC 5-10-15; or

32 (2) the member's covered impairment, as determined under
 33 section 13.3(b) of this chapter, was not a covered impairment
 34 described in subsection (b)(1).

35 The application must be filed with the local board that made the
 36 determination of a covered impairment resulting in a disability benefit
 37 under section 13.3(b) of this chapter. The application form shall be
 38 prepared by the system board or its designee and be made available to
 39 a fund member or survivor of a fund member described in subsection
 40 (a) upon request.

41 (c) A fund member or survivor of a fund member who files an
 42 application under this section has the burden of presenting sufficient



1 evidence to support a finding that the member's covered impairment,
2 as determined under section 13.3(b) of this chapter, satisfies the
3 standard provided in subsection (b)(1). Such evidence may include any
4 documents, materials, or other evidence provided in connection with
5 the original hearing and determination of a covered impairment as
6 determined under section 13.3(b) of this chapter, including any
7 transcript from that proceeding. A fund member or a survivor of a fund
8 member may include with an application any additional probative
9 evidence that is relevant to the determination under subsection (b)(1).
10 The local board may establish reasonable procedures with respect to
11 the application process and may engage a medical authority to provide
12 opinions relevant to making its determination. The local board may
13 hold a hearing with respect to an application filed under this section if
14 the fund member or survivor of a fund member shows good cause that
15 documents or other probative evidence sufficient to make the showing
16 required under this subsection is not reasonably obtainable and that
17 holding a hearing would be reasonably likely to provide such probative
18 evidence. If the local board conducts a hearing, it shall be subject to the
19 provisions of section 12.7 of this chapter relating to the conduct of
20 hearings on the determinations of covered impairments under this
21 chapter.

22 (d) The local board shall make its recommendation, including
23 findings of fact, in writing and shall provide copies of its
24 recommendation to the fund member or survivor of the fund member
25 and the system board not later than thirty (30) days after the:

26 (1) filing of the application, if no hearing is held; or

27 (2) hearing, if held.

28 (e) If the local board does not issue its recommendation within the
29 time required under subsection (d), the member's covered impairment
30 shall be considered to be a covered impairment described under
31 subsection (b)(1) for purposes of the local board's recommendation.

32 (f) The system board shall review the local board's recommendation,
33 or the considered recommendation under subsection (e), not later than
34 forty-five (45) days after receiving the recommendation and shall then
35 issue an initial determination of whether the covered impairment is one
36 described under subsection (b)(1). The system board shall notify the
37 local board and the fund member or survivor of the fund member of its
38 initial determination.

39 (g) The fund member or survivor of the fund member or the local
40 board may object in writing to the system board's initial determination
41 under subsection (f) not later than fifteen (15) days after the initial
42 determination is issued by filing an objection with the system board. If



1 a written objection is not filed, the system board's initial determination
 2 becomes final. If a timely written objection is filed, the system board
 3 shall issue a final determination after a hearing. ~~Unless an~~
 4 ~~administrative law judge orders a waiver or an extension of the period~~
 5 ~~for cause shown;~~ The final determination must be issued not later than
 6 one hundred eighty (180) days after the date of receipt of the local
 7 board's recommendation.

8 (h) If the system board fails to issue an initial determination within
 9 forty-five (45) days after receiving the local board's recommendation,
 10 the default determination on whether the covered impairment is one
 11 described under subsection (b)(1) will be the determination made by
 12 the system board's medical authority. An objection to this
 13 determination may be filed in accordance with the provisions of
 14 subsection (g).

15 (i) A determination that a member's covered impairment is one
 16 described under subsection (b)(1) will apply only on a prospective
 17 basis beginning on January 1 of the calendar year in which the
 18 determination is made. The amount of the benefit will not be changed
 19 as a result of this determination.

20 (j) A fund member or survivor of a fund member described in
 21 subsection (a) must file an application under this section no later than
 22 two (2) years after the date the system board notifies the fund members
 23 and survivors described in subsection (a) that the board has received a
 24 favorable ruling from the Internal Revenue Service. The system board
 25 will provide notice of receipt of a favorable ruling within thirty (30)
 26 days of its receipt.

27 (k) This section expires July 1, 2021.

28 SECTION 179. IC 36-8-8-22 IS REPEALED [EFFECTIVE JULY
 29 1, 2016]. ~~Sec. 22. Nothing in this chapter limits the discretion of the~~
 30 ~~system board to select an administrative law judge under IC 4-21.5-3-9.~~

