Members

Sen. R. Michael Young
Sen. James Tomes
Sen. James Arnold
Sen. Greg Taylor
Rep. Greg Steuerwald
Rep. Thomas Washburne
Rep. Charles Moseley
Rep. Cherrish Pryor
Gary Miller
Gretchen Gutman
Mike McMahon
Hon. Margret G. Robb
Jerry Bonnet
Matt Light

LSA Staff:

John Stieff, Attorney for the Commission

Authority: IC 2-5-1.1-10

CODE REVISION COMMISSION

Legislative Services Agency
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Indianapolis, Indiana 46204-2789
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MEETING MINUTES[1]

Meeting Date:	**September 11, 2013**
Meeting Time:	**1:30 P.M.**
Meeting Place:	**State House, 200 W. Washington St., Room 233**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**1**

Members Present: **Sen. R. Michael Young; Sen. James Tomes; Sen. Greg Taylor; Rep. Thomas Washburne; Rep. Charles Moseley; Rep. Cherrish Pryor; Gretchen Gutman; Mike McMahon; Hon. Margret G. Robb; Jerry Bonnet; Matt Light.**

Members Absent: **Sen. James Arnold; Rep. Greg Steuerwald; Gary Miller.**

Staff Present: **Mr. John Stieff, Director, Office of Code Revision, Legislative Services Agency; Mr. Craig Mortell, Attorney, Office of Bill Drafting and Research; Mr. John Kline, Attorney, Office of Code Revision; Ms. Stephanie Lawyer, Attorney, Office of Code Revision.**

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[1] These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at http://www.in.gov/legislative Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for hard copies.

I. CALL TO ORDER

The meeting was called to order at 1:30 p.m. by Senator R. Michael Young.

II. ELECTION OF CHAIR

A motion was made and seconded to nominate Senator R. Michael Young to be the new Chairman of the Code Revision Commission. Senator Young was elected Chairman by unanimous vote.

III. INTRODUCTION

Mr. John Stieff, Director of the Office of Code Revision (OCR), made a few introductory remarks and explained continuing projects dealing with the technical corrections bill, reorganization of certain provisions in IC 25, and reordering of provisions in IC 35-51. Mr. Stieff presented a preliminary draft concerning IC 35-51 for the Commission's consideration for the next Code Revision Commission meeting and asked to remove that item from the meeting agenda.

IV. REVIEW OF MINUTES

The Commission reviewed the minutes of the Commission's last meeting on October 16, 2012, and there were no questions or revisions. The Commission approved the minutes by consent.

The Chairman inquired about the Commission's duties under Senate Bill 35-2013 concerning motor vehicles. Mr. Stieff noted that contact has been made with the Secretary of State's office, and that it had been determined that the sections affected concerned substantive corrections that could not be included in the technical corrections bill. Mr. Stieff stated that a PD would be presented as a trailer bill to the technical corrections bill at the next meeting of the Commission.

The Chairman noted that the Commission would not be dealing with technical corrections associated with HB 1006-2013, and those items would be dealt with by the Criminal Law and Sentencing Policy Study Committee.

V. DISCUSSION OF TECHNICAL CORRECTIONS BILL

The Chairman recognized Craig Mortell, Attorney - Office of Bill Drafting and Research, for the discussion of PD 3008, the draft of the 2014 technical corrections (TC) bill.

Mr. Mortell drew the Commission's attention to the SECTION-by-SECTION outline of PD 3008, saying that it is intended to identify the problem perceived in each Code section in PD 3008 and explain how PD 3008 would resolve each problem. He said that the provisions of PD 3008, like those of the TC bill drafts of past years, fall within two broad categories: (1) conflict resolution SECTIONS; and (2) "everything else," i.e., SECTIONS resolving problems other than conflicts, including incorrect statutory references, nonstandard tabulation, grammatical problems, and misspellings.

Mr. Mortell provided a handout showing the type of text and format used to merge sections in the TC bill. Concerning the conflict resolution SECTIONS, Mr. Mortell made the following comments: The only sort of conflict that is resolved in the TC bill draft is a "technical" conflict, that is, one that does *not* involve the meaning or effect of the law. When a technical conflict arises, the Code ends up containing not one but two (or more) versions of the Code section affected by the conflict. The multiple versions of the Code section remain in the Code until the following year's TC bill resolves the conflict by merging the multiple versions into one version.

Mr. Mortell noted that most of the sections of the TC bill were unremarkable, but did point out SECTION 117 regarding the use of the term "credit time" versus "credit for time". He provided that this technical correction resulted from a Court of Appeals decision interpreting the intent of the statute. The Chairman commented that the members would review PD 3008 for approval at the next meeting.

Ms. Stephanie Lawyer, Attorney - Office of Code Revision, presented a handout to the Commission for discussion of one addition to the TC bill. She explained that the issue deals with the bureau of motor vehicles and the signature of an individual applying for or receiving a driver's license, permit, or identification card. Ms. Lawyer noted that the correction is to change a cross-reference in IC 9-14-3-5(b)(5) from IC 9-24-16-3 to IC 9-24-16-2 because IC 9-24-16-2 is the more appropriate Code cite since the passage of P.L.125-2012. She further explained how the change fits with the wording and purpose of the statute. The Commission approved by voice vote the inclusion of the correction in the TC bill. Representative Tom Washburne commended the staff for their work on the Indiana Code.

The Chairman asked Mr. Mortell if he could go over the conflict sections in the TC bill and any "close calls". Mr. Mortell noted that there were not any other close calls, and Mr. Stieff suggested that SECTION 1 might be noteworthy. Mr. Mortell explained that the SECTION 1 correction inserted the words "concerning vulnerable youth" because of the inference that the term was needed and consistent with the usage throughout the rest of the statute.

The Chairman inquired about SECTION 3 concerning the use of inconsistent terminology. Ms. Lawyer explained the issue between using the term "form" versus "application" throughout the section and the necessity to make the terminology consistent.

Senator Greg Taylor expressed his concern regarding the earlier discussion about the use of the term "credit time" in light of a recent Appellate Court decision. Mr. Mortell noted that the TC bill change should not have an impact regarding that case, but that he would take a look at the issue. Senator Taylor noted that the terms have caused some confusion and he does not want the TC bill change to have a negative or substantive impact.

Mr. Mortell discussed a couple of other TC bill SECTIONS and noted one where a date was changed from 2012 to 2013. Mr. Mortell noted that, generally for conflicts in the TC bill, if one bill leaves a word alone and the other bill amends the word, the intent is to amend the word. The Chairman pointed out that a date change could be a substantive change. Mr. Mortell agreed and noted that the date change for this particular case was not perceived to be substantive. There was some additional discussion regarding conflicts and renumbering of repealed and recodified statutes.

VI. DISCUSSION OF PUBLICATION OF THE CODE

The Commission discussed general publication issues regarding the TC bill and recodifications. Representative Washburne asked the staff what alternatives they have for explaining corrections, repeals, and recodifications within the text of the Code and whether there are any editorial notes regarding whether a change was substantive or not. Mr. Mortell noted that the disposition and derivation tables for recodifications can be found on the general assembly's Internet website, but that the Code is published generally without explanations for amendments. Mr. George Angelone, Executive Director - Legislative Services Agency, noted that the legislative branch's computer systems are being updated and that the new system would allow for better research functions. Mr. Angelone invited the Commission to propose additions to the system that would be beneficial to practicing attorneys. Additional discussion ensued regarding legislative history and editorial content

in the Code.

Mr. Stieff brought an item to the Commission's attention regarding the use of a noncode provision in the TC bill that is similar to a provision drafted in the budget bill from the 2013 legislative session. He explained that the provision gave specific instructions to the publishers regarding conflicts between the TC bill and other substantive bills. Mr. Stieff noted that the provision would cut down on time spent resolving conflicts with the TC bill during session, and that the provision could be included in the TC bill each year or placed in the Code in Title 1 at some point in the future. Mr. Stieff noted that the TC bill is a nonsubstantive bill and that bills with amendments conflicting with the TC bill take precedence.

Ms. Gretchen Gutman inquired as to whether the staff would continue to try to resolve TC bill conflicts during session, and whether this provision could delay certification of the Code. Mr. Stieff noted that the staff incorporates TC bill changes throughout the session, but this provision would alleviate the need for Joint Rule 20 amendments and Conference Committee Reports to resolve the conflicts. Finally, Mr. Stieff stated that the certification process should not be slowed because the provision gives precise directions for the Code publication. The Chairman noted that the provision was of importance, and that the members should consider it carefully before any action at the next meeting.

VII. PROPOSED REORGANIZATION OF CERTAIN PROVISIONS IN IC 25

Ms. Lawyer handed out a memo regarding the reorganization of provisions in IC 25. Mr. Stieff gave some history regarding the structure of provisions related to occupations and occupational licensing. He noted that over the years the lists maintained in IC 25 have become quite long and this fact creates conflicts when the provisions are amended by multiple bills throughout a legislative session. He stated that the project involves amending the sections containing lists by removing the lists and reenacting them in separate chapters to avoid conflicts. Ms. Lawyer noted that the staff is meeting with staff from the Professional Licensing Agency to review a draft and to propose changes. The Chairman asked when the Commission might have a draft to review, and Ms. Lawyer stated that a draft should be ready within a few days after the meeting with the agencies and before the next Commission meeting.

Representative Washburne inquired about the agencies' use of forms and whether this project would require the agencies to change or update forms, creating an administrative and fiscal impact. Mr. Stieff stated that the staff would inquire about the use of forms with the Professional Licensing Agency during the meeting and report back to the Commission at the next Commission meeting.

VIII. OTHER BUSINESS

The Chairman commented that the Inspector General's Office has requested consideration by the Commission of recodification of Titles 4 and 5 to separate the provisions into organizational and operating categories. The Chairman stated that the Inspector General's Office would like to brief the Commission on the matter at the next meeting. The Commission members discussed the details for the next meeting and agreed to hold the next meeting on Tuesday, October 15, at 1:30 p.m.

IX. ADJOURNMENT

The Chairman thanked the staff and members for their work. The meeting was adjourned by the Chairman at 3:05 p.m.

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PLEASE NOTE -- the information on both sides of this handout is intended as an aid toward understanding of the SECTIONS of PD 3008 (the first draft of the 2014 technical corrections bill) that resolve " technical conflicts".

HOW THE TECHNICAL CORRECTIONS BILL RESOLVES TECHNICAL CONFLICTS

If a section of the Indiana Code was amended by two (or more) acts of a previous session, and neither act recognized the amendment being made in the Code section by the other act, the result is what the LSA Office of Code Revision refers to as "a conflict". In a conflict situation, the Indiana Code ends up containing not one but TWO (or more) versions of the Code section -- with each version reflecting the changes made in the Code section by one of the acts.

If there is NO SUBSTANTIVE CONFLICT between (or among) the multiple versions of the Code section, the technical corrections (TC) bill resolves the conflict through an amendment to the Code section that merges the multiple versions of the Code section into one. This is done so that the Indiana Code may again contain only one version of the Code section -- one that incorporates *all* of the changes made in the Code section in the prior session.

A SECTION of the TC bill that resolves a conflict:

- contains a lead-in line that refers to both (or all) of the acts that amended the Code section in the prior session, and
- includes the words "CORRECTED AND".

[Example: "SECTION 8. IC 4-33-12-6, AS AMENDED BY P.L.229-2013, SECTION 67, AND AS AMENDED BY P.L.205-2013, SECTION 67, IS **CORRECTED AND** AMENDED TO READ ..."]

The SECTION resolving a conflict must include every word that appears in any of the multiple versions of the Code section. All of these words are combined in the SECTION so as to merge the multiple versions of the Code section into one.

The type style in which each word is presented in the conflict-resolving SECTION follows this scheme:

If a word was:	the word is presented:
already in the Code section and was NOT AFFECTED by either act (or any act) that amended the Code section . . .	in roman type.
ADDED to the Code section by both acts (or all of the acts) that amended the Code section . . .	in roman type.
ADDED to the Code section by one act but **not** by both acts (or all of the acts) that amended the Code section . . .	in *italic type.*
already in the Code section and was STRICKEN by one act but **not** by both acts (or all of the acts) that amended the Code section . . .	in ~~*italic and stricken type.*~~
already in the Code section and was STRICKEN by both acts (or all of the acts) that amended the Code section . . .	not at all -- the word is deleted.

ILLUSTRATION OF A SECTION RESOLVING A TECHNICAL CONFLICT

Let's assume that IC 14-8-2-108 was amended in different ways by two 2013 acts, HEA 1234 and SEA 56. The SECTIONS of HEA 1234 and SEA 56 amending IC 14-8-2-108 might look like this:

HEA 1234:

SECTION 1. IC 14-8-2-108 IS AMENDED TO READ AS FOLLOWS: Sec. 108. "Furbearing mammal", for purposes of IC 14-22, means beaver, red fox, gray fox, **cottontail rabbit,** long tailed weasel, mink, muskrat, ~~raccoon,~~ coyote, ~~opossum,~~ or skunk.

SEA 56:

SECTION 1. IC 14-8-2-108 IS AMENDED TO READ AS FOLLOWS: Sec. 108. "Furbearing mammal", for purposes of IC 14-22, means beaver, red fox, gray fox, **cottontail rabbit,** long tailed weasel, mink, **otter,** muskrat, raccoon, coyote, ~~opossum,~~ or skunk.

The SECTION resolving the 14-8-2-108 technical conflict will indicate the changes made by these two amending acts as follows:

- The term "cottontail rabbit" was ADDED by both of the acts. Therefore, it appears in the conflict resolving SECTION in roman text.
- The word "otter" was ADDED by one of the acts (SEA 56) but **not** by the other act. Therefore, it appears in the conflict resolving SECTION in *italic text*.
- The word "racoon" was STRICKEN by one of the acts (HEA 1234) but **not** by the other act. Therefore, it appears in the conflict resolving SECTION in ~~*stricken italic text*~~.
- The word "opossum" was STRICKEN by both acts. Therefore, it disappears and does not appear at all in the conflict resolving SECTION.

Here is how the SECTION resolving the technical conflict would appear in the TC bill:

SECTION 50. IC 14-8-2-108, AS AMENDED BY HEA 1234-2013, AND AS AMENDED BY SEA 56-2013, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 108. "Furbearing mammal", for purposes of IC 14-22, means beaver, red fox, gray fox, cottontail rabbit, long tailed weasel, mink, *otter,* muskrat, ~~*raccoon,*~~ coyote, or skunk.

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Proposed addition to the 2014 Technical Corrections PD

The SECTION below contains a technical correction proposed to be added to the 2014 Technical Corrections PD. It amends IC 9-14-3-5 and would be inserted (for Code cite order) in PD 3008 at SECTION 33 on page 53.

SECTION 33. IC 9-14-3-5, AS AMENDED BY P.L.125-2012, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), (d), or (e), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be:

(1) submitted in writing; or

(2) made electronically through the computer gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology;

to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau shall not disclose:

(1) the Social Security number;

(2) the federal identification number;

(3) the driver's license number;

(4) the digital image of the driver's license applicant;

(5) a reproduction of the signature secured under IC 9-24-9-1 or ~~IC 9-24-16-3;~~ **IC 9-24-16-2;** or

(6) medical or disability information;

of any person except as provided in subsection (c).

(c) The bureau may disclose any information listed in subsection (b):

(1) to a law enforcement officer;

(2) to an agent or a designee of the department of state revenue;

(3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); or

(4) for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.

(d) As provided under 42 U.S.C. 1973gg-3(b), the bureau may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(e) The bureau may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (d)) to sign a voter registration application, except as authorized under IC 3-7-14.

Reason for the Addition:

Under IC 9-14-3-5(b) the Indiana bureau of motor vehicles is prohibited from disclosing certain information about a person except under limited circumstances. Subsection (b)(5) prohibits the disclosure of "a reproduction of the *signature secured* under IC 9-24-9-1 or IC 9-24-16-3". (emphasis added)

The two chapters referenced–IC 9-24-9 and IC 9-24-16–are comparable. IC 9-24-9 concerns application for driver's licenses and permits. IC 9-24-16 concerns the issuance of identification cards for nondrivers.

The first section referenced, IC 9-24-9-1, sets forth the requirements that must be met by an application for a driver's license or permit. Specifically, the application must be made on the bureau's approved form, it must include an affidavit in which the applicant swears or affirms that the information he or she provided in the application is correct, and it must include a voter registration form.

The second section referenced–the one we believe is incorrect for the context–IC 9-24-16-3, sets forth the requirements for the size, shape, markings, and contents of a state-issued identification card. Specifically, IC 9-24-16-3(b) provides that the card's front side "must contain" certain information about the individual to whom the card is issued, including full legal name, address, and date of birth. IC 9-24-16-3(b)(5) contains a longstanding requirement that the card "must contain" a reproduction of the individual's signature. IC 9-14-3-5, in prohibiting disclosure of a signature's reproduction, references that section. No other such reference to an individual's signature, or a reproduction of a signature, was included in IC 9-24-16 until the passage of P.L.125-2012, which, in part, amended IC 9-24-16-2.

IC 9-24-16-2 provides that an application for an identification card must require certain information concerning an applicant, including full legal name, date of birth, and gender. P.L.125-2012, SECTION 226, added two items to the section's list: a digital photograph of the applicant and the signature of the applicant showing the applicant's legal name as it will appear on the card. Once the Public Law passed, the reference in IC 9-24-3-5(b) to IC 9-24-16-3 became less accurate–the wording of IC 9-14-3-5(b)(5) concerning a signature "secured under" the referenced cites never quite matched with IC 9-24-16-3's list of information that an identification card "must contain". The former anticipates the manner in which the signature was obtained and more readily fits the purpose of IC 9-24-16-2, which sets forth the information an application is required to collect, and making IC 9-24-16-2 the appropriate Code cite reference in this situation.

This correction was suggested by Susan Montgomery, LSA drafting attorney.

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PRELIMINARY DRAFT
No. 3042

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2014 GENERAL ASSEMBLY

DIGEST

Citations Affected: None (noncode).

Synopsis: Technical corrections. Proposed amendment to the technical corrections bill. Provides the publisher of the Indiana Code with guidance concerning resolution of conflicts between the technical corrections bill and other bills passed during the 2014 legislative session. Specifies that if there is a conflict between a provision in the technical corrections bill and a provision in another bill, the other bill's provision is law.

Effective: Upon passage.

A BILL FOR AN ACT concerning general provisions.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies if a provision of the Indiana Code is:**

(1) added, amended, or repealed by this act; and

(2) added, amended, or repealed by another act without recognizing the existence of the addition, amendment, or repeal made by this act by an appropriate reference in the lead-in line of the SECTION of the other act adding, amending, or repealing the same provision of the Indiana Code.

(b) As used in this SECTION, "other act" refers to an act enacted in the 2014 session of the general assembly other than this act.

(c) Except as provided in subsections (d) and (e), the provision as added, amended, or repealed by the other act shall be considered the law in Indiana, regardless of whether there is a difference in the effective date of the provision added, amended, or repealed by this act and the provision added, amended, or repealed by the other act. The lawful compilers of the Indiana Code, in publishing the affected Indiana Code provision, shall publish only the version of the Indiana Code provision that is amended by the other act. The history line for an Indiana Code provision that is added or amended by the other act must reference both acts.

(d) This subsection applies if a provision described in subsection (a) that is added, amended, or repealed by this act takes effect before the corresponding provision in the other act. The lawful compilers of the Indiana Code, in publishing the provision in this act, shall publish that version of the provision and note that the provision is effective until the effective date of the corresponding provision in the other act. On and after the effective date of the corresponding provision in the other act, the provision as added, amended, or repealed by the other act shall be considered the law

in Indiana, regardless of whether there is a difference in the effective date of the provision added, amended, or repealed by this act and the provision added, amended, or repealed by the other act. The lawful compilers of the Indiana Code, in publishing the corresponding Indiana Code provision, shall publish the version of the Indiana Code provision that is added, amended, or repealed by the other act, and shall note that this version of the provision is effective on the effective date of the provision in the other act. The history line for an Indiana Code provision that is added or amended by the other act must reference both acts.

(e) If this act adds a provision at the same Indiana Code location as a provision added in the other act, the lawful compilers of the Indiana Code, in publishing the affected Indiana Code provisions, shall publish both the version of the Indiana Code provision that is added by this act and the version that is added by the other act, unless the subject matter in both versions of the provision is substantially similar. If the subject matter is substantially similar, subject to subsection (d), the lawful compilers of the Indiana Code, in publishing the affected Indiana Code provision, shall publish the version of the Indiana Code provision that is amended by the other act, and shall note that this version of the provision is effective on the effective date of the provision in the other act. The history line for an Indiana Code provision that is added or amended by the other act must reference both acts.

(f) If, during the same year, two (2) or more other acts amend, add, or repeal the same Indiana Code provision as the Indiana Code provision amended, added, or repealed by this act, the lawful compilers of the Indiana Code, in publishing the Indiana Code provision, shall follow the principles set forth in this SECTION.

SECTION 2. **An emergency is declared for this act.**