

# HOUSE BILL No. 1381

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-8-1-35; IC 36-1-34.1.

**Synopsis:** Removal of city or town fiscal officer. Allows the legislative body of a city or town (municipality) to petition a court for removal of the municipality's fiscal officer for any of the following: (1) Charging illegal fees for services. (2) Failing to perform official duties. (3) With certain exceptions, failing to be present in the officer's office. (4) Failing to participate in four consecutive meetings of the legislative body of the municipality.

**Effective:** July 1, 2026.

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**Smaltz**

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January 8, 2026, read first time and referred to Committee on Local Government.

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Second Regular Session of the 124th General Assembly (2026)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2025 Regular Session of the General Assembly.

## HOUSE BILL No. 1381

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

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

1       SECTION 1. IC 5-8-1-35, AS AMENDED BY P.L.159-2025,  
2       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2026]: Sec. 35. (a) When an accusation in writing, verified by  
4       the oath of any person or in resolutions adopted by a county executive  
5       and county fiscal body in accordance with IC 36-2-8.7 or IC 36-6-4.5,  
6       **or a city or town legislative body in accordance with IC 36-1-34.1,**  
7       is presented to a circuit court, superior court, or probate court, alleging  
8       that any officer within the jurisdiction of the court has been guilty of:  
9               (1) charging and collecting illegal fees for services rendered or to  
10          be rendered in the officer's office;  
11               (2) refusing, neglecting, or being unable to perform the official  
12          duties pertaining to the officer's office;  
13               (3) in the case of a county officer (as defined in IC 36-2-8.7-1),  
14          failing to be physically present in the county officer's office in  
15          violation of IC 36-2-8.7-7;  
16               (4) violating IC 36-6-4-17(b) if the officer is the executive of a  
17          township; ~~or~~



(5) failing, refusing, or being unable to participate in four (4) consecutive regular meetings of the county executive, if the officer is a member of a county executive;

**(6) in the case of a fiscal officer (as defined in IC 36-1-2-7) of a second or third class city or town, failing to be physically present in the fiscal officer's office in violation of IC 36-1-34.1-6; or**

**(7) in the case of a fiscal officer (as defined in IC 36-1-2-7) of a second or third class city or town, failing, refusing, or being unable to participate in four (4) consecutive regular meetings of the city or town legislative body;**

the court must cite the party charged to appear before the court at any time not more than ten (10) nor less than five (5) days from the time the accusation was presented, and on that day or some other subsequent day not more than twenty (20) days from the time the accusation was presented must proceed to hear, in a summary manner, the accusation and evidence offered in support of the same, and, if the accused party appears before the court, the answer and evidence offered by the party accused. If the accused party does not appear before the court, the court may proceed to hear and determine the accusation in the accused party's absence.

(b) If after the hearing under subsection (a) it appears that the charge is sustained, the court must do the following:

(1) Enter a decree that the party accused be deprived of the party's office.

(2) Enter a judgment as follows:

(A) For five hundred dollars (\$500) in favor of the prosecuting officer.

(B) For costs as are allowed in civil cases.

(C) For the amount of money that was paid to the officer in compensation from the day when the accusation was filed under this section to the day when judgment is entered in favor of the public entity paying the compensation to the officer.

(c) In an action under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the accused officer if:

(1) the officer prevails; and

(2) the court finds that the accusation is frivolous or vexatious.

SECTION 2. IC 36-1-34.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

**Chapter 34.1. Removal of a City or Town Fiscal Officer**



1       **Sec. 1. This chapter applies only to a municipality that is a:**

- 2           (1) second or third class city; or  
3           (2) town.

4       **Sec. 2. The legislative body of a municipality may petition a**  
5 **court to remove the municipality's fiscal officer from office under**  
6 **IC 5-8-1-35 by adopting a resolution in accordance with this**  
7 **chapter.**

8       **Sec. 3. At least one (1) public hearing must be held by the**  
9 **legislative body of the municipality on the resolution at least ten**  
10 **(10) business days before the resolution is adopted. The resolution**  
11 **must contain a concise statement of the underlying basic facts that**  
12 **support the legislative body's finding that the fiscal officer**  
13 **committed a violation described in:**

- 14           (1) section 6 of this chapter;  
15           (2) IC 5-8-1-35(a)(1);  
16           (3) IC 5-8-1-35(a)(2);  
17           (4) IC 5-8-1-35(a)(6); or  
18           (5) IC 5-8-1-35(a)(7).

19       **Sec. 4. The resolution must be adopted by an affirmative vote of**  
20 **at least a majority of all members of the legislative body of the**  
21 **municipality.**

22       **Sec. 5. The legislative body of the municipality shall certify the**  
23 **resolution to:**

- 24           (1) the fiscal officer; and  
25           (2) the clerk of the court in which the action is filed under  
26       **IC 5-8-1-35;**

27 **not later than ten (10) days after the date the resolution is adopted.**

28       **Sec. 6. (a) A fiscal officer must be physically present in the fiscal**  
29 **officer's office during regular office hours for a reasonable amount**  
30 **of time each month during the fiscal officer's term of office.**

31       **(b) A fiscal officer may be removed from office by the court**  
32 **under IC 5-8-1-35, if the fiscal officer is in violation of this section**  
33 **during one (1) or more months of the fiscal officer's term.**  
34 **However, it is a defense to any action brought under IC 5-8-1-35**  
35 **asserting a violation of this section, that the fiscal officer's failure**  
36 **to be physically present in the fiscal officer's office was due to:**

- 37           (1) the serious illness of the fiscal officer or the fiscal officer's  
38       **spouse, parent, child, or stepchild; or**  
39           (2) military service of the fiscal officer.

40 **The defense is available in any action brought under IC 5-8-1-35**  
41 **regardless of whether the action is brought by a person or upon**  
42 **resolutions adopted by the legislative body of the municipality**



1 under this chapter.  
2 (c) A fiscal officer:  
3 (1) does not violate this section; and  
4 (2) may not be removed from office under IC 5-8-1-35;  
5 for being physically absent from the fiscal officer's office during  
6 any month in which a declaration of a local disaster emergency  
7 under IC 10-14-3-29 is in effect for at least one (1) work day in the  
8 county or municipality in which the fiscal officer's office is located.

