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Indiana Fire Departments, Fire Territories, and Police Department May Need to Evaluate Merit System Under New Law

On April 29, 2023, the 123rd Indiana General Assembly first regular session ended, and House Enrolled Act No. 1016 ("HEA 1016") passed the house and senate. On May 4, 2023, Governor Eric Holcomb signed HEA 1016 into law. This new law has several important impacts on police and fire merit systems.

HEA 1016 expands merit systems by allowing a fire protection district or a fire protection territory to establish a merit system. Previously, merit systems under Indiana Code Section 36-8-3.5-1 were only available to municipalities or townships with full time, paid police or fire departments. With the passage of the act, the governing board for a fire protection district or a fire protection territory may now establish a merit system for firefighters.

Perhaps more importantly, HEA 1016 requires that certain units will automatically have merit systems for their police and fire departments unless the unit and the department's members take action to stop it. Under HEA 1016, any unit that has not already established a merit system for a police or fire department and:

- Has at least 12 full-time, paid members; and
- Provides service to at least 20,000 people,

will have an established merit system effective **January 1, 2025**. If the unit or governing board of these "eligible departments" accepts the automatic establishment of the merit system on January 1, 2025, then the unit or governing board has a duty to appoint a merit commission by March 1, 2025, in accordance with the new statute.

If a unit or governing board wishes to reject this automatically established merit system, then the unit or governing board must pass a resolution rejecting the merit system. The resolution must be approved by a majority of the legislative body (in the case of a unit)

or the governing board (in the case of a fire protection district or fire protection territory). The resolution must then also be approved by a majority of a department's active full-time, paid members. The resolution rejecting a merit system must be approved by **December 31, 2024.**

HEA 1016 also requires a unit or governing board to hold a vote to either retain or dissolve the merit system between January 1, 2029, and January 31, 2029.

If you believe your unit or governing board could have an eligible department described above, you should review whether the automatic establishment of merit systems in HEA 1016 applies to you. If so, your unit or governing board should consider:

- Establishing a merit system now;
- Adopting a resolution rejecting establishment of merit system; or
- Accepting the automatic establishment of a merit system on January 1, 2025.

There is an extensive process in adopting, rejecting or modifying a merit system, and a unit or governing board should find out what system is right for it and its members.

If you have any questions about this decision or other municipal law issues, please contact Frost Brown Todd's [Government Services](#) practice group.

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