

IC 36

TITLE 36. LOCAL GOVERNMENT

IC 36-1

ARTICLE 1. GENERAL PROVISIONS

IC 36-1-1

Chapter 1. Legislative Intent

IC 36-1-1-1

Intent of title; citation to prior statute

Sec. 1. This title is intended to codify, revise, or rearrange applicable or corresponding provisions in prior statutes. A citation to a prior statute may be construed as a citation to the appropriate provision of this title if the prior statute is reenacted in the same or restated form in this title.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-1-2

Preservation of materials related to title

Sec. 2. The general assembly may, by concurrent resolution, preserve any of the materials related to the enactment of this title that it considers appropriate.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-1.5

Chapter 1.5. Transfer of Municipal Territory to an Adjacent Township

IC 36-1-1.5-1

Application of chapter

Sec. 1. This chapter does not apply to a county having a consolidated city.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-2

"Eligible municipality"

Sec. 2. As used in this chapter, "eligible municipality" means a municipality that:

(1) includes any territory located in a township for which the township assistance property tax rate for property taxes first due and payable in 2015 or in any year thereafter is more than:

(A) the statewide average township assistance property tax rate for property taxes first due and payable in that same year (as determined by the department of local government finance); multiplied by

(B) twelve (12); and

(2) is adjacent to one (1) or more townships other than the township described in subdivision (1).

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-3

"Township assistance property tax rate"

Sec. 3. As used in this chapter, "township assistance property tax rate" has the meaning set forth in IC 6-1.1-20.3-6.7(a).

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-4

"Transferor township"

Sec. 4. As used in this chapter, "transferor township" means a township described in section 2(1) of this chapter.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-5

Other reorganizations or alterations not prohibited

Sec. 5. This chapter does not prohibit the:

(1) reorganization; or

(2) alteration of the boundaries;

of one (1) or more townships under any other law.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-6

Transfer of territory of eligible municipality

Sec. 6. The territory of an eligible municipality that is located in a transferor township may be transferred from the transferor township

to an adjacent township within the county as provided in this chapter.
As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-7

Petition requesting public question; requirements

Sec. 7. The voters of an eligible municipality may file a petition with the clerk of the eligible municipality to have a public question placed on the ballot under section 8 of this chapter to allow voters to vote on whether the territory of the eligible municipality should be transferred to an adjacent township within the county. A petition under this section must be signed by at least the number of voters equal to thirty percent (30%) of the votes cast in the eligible municipality in the last election for secretary of state.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-8

Certification of petition; special election; costs of special election; certification of results of special election

Sec. 8. The following apply if the voters of an eligible municipality file a sufficient petition under section 7 of this chapter:

(1) The clerk of the eligible municipality shall certify the petition to the county election board.

(2) A special election on the public question shall be held in the eligible municipality in the manner prescribed by IC 3-10-8-6.

The special election shall be held on a date that:

(A) is determined by the legislative body of the eligible municipality; and

(B) is not more than one (1) year after the date on which the clerk of the eligible municipality certifies the petition to the county election board.

(3) The clerk of the eligible municipality shall give notice of the special election by publication in the manner prescribed by IC 5-3-1.

(4) The eligible municipality shall pay the costs of holding the special election.

(5) The county election board shall place the following question on the ballot in the eligible municipality:

"Shall the territory of _____ (insert the name of the eligible municipality) be transferred from _____ (insert the name of the transferor township) to an adjacent township?"

(6) After the special election on the public question is held, the county election board:

(A) shall file with the clerk of the eligible municipality the results of the special election for each precinct of the eligible municipality in the manner prescribed by IC 3-12-4; and

(B) shall certify a copy of the results of the special election to:

(i) the county auditor;

(ii) the legislative body and executive of the eligible

municipality; and

(iii) the legislative body and executive of each township that includes territory of the eligible municipality.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-9

Petition by eligible municipality requesting transfer of territory; acceptance of transfer by adjacent township; deadlines; subsequent public questions

Sec. 9. The following apply if at least two-thirds (2/3) of the voters voting in a special election under this chapter vote "yes" on the public question under this chapter:

(1) The legislative body of the eligible municipality may, within one (1) year after the special election, submit a petition to one (1) or more adjacent townships requesting an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township.

(2) The legislative body of an adjacent township that receives a petition under subdivision (1) may adopt a resolution accepting the transfer of the territory of the eligible municipality that is within the transferor township and specifying the date on which the transfer is effective. However, the legislative body of the adjacent township may adopt a resolution accepting the transfer of the territory of the eligible municipality only within the one (1) year period following the date on which the legislative body receives the petition.

(3) If the legislative body of the eligible municipality submits a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the special election, but a resolution accepting the transfer of the territory of the eligible municipality within the transferor township is not adopted by the legislative body of an adjacent township within the one (1) year period following the date on which the last legislative body of a township receives such a petition:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent special election under this chapter may not be held in the eligible municipality.

(4) If the legislative body of the eligible municipality does not submit a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the special election:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent special election under this chapter may not be held in the eligible municipality.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-10

Transfer of territory not authorized if public question not approved

Sec. 10. If less than two-thirds (2/3) of the voters voting in a special election under this chapter vote "yes" on the public question under this chapter:

(1) the territory of the eligible municipality may not be transferred under this chapter; and

(2) a subsequent special election under this chapter may not be held in the eligible municipality.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-11

Transfer of territory

Sec. 11. (a) If the legislative body of a township that receives a petition under section 9(2) of this chapter adopts a resolution accepting the transfer of the eligible municipality's territory that is within the transferor township as provided in section 9(2) of this chapter, the territory of the eligible municipality that is within the transferor township is transferred to and becomes part of the township adopting the resolution on the date specified in the resolution.

(b) If more than one (1) adjacent township adopts a resolution as provided in section 9(2) of this chapter accepting the transfer of the territory of the eligible municipality that is within the transferor township, the territory of the eligible municipality that is within the transferor township is transferred to and becomes part of the township that is first to adopt the resolution.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-12

Outstanding indebtedness

Sec. 12. (a) Except as provided in subsection (c), if the transferor township is indebted or has outstanding unpaid bonds or other obligations at the time the transfer is effective, the township to which the territory is transferred is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property transferred bears to the assessed valuation of all property in the transferor township, as determined for the last assessment date before the transfer.

(b) Except as provided in subsection (c), if the indebtedness consists of outstanding unpaid bonds or notes of the transferor township, the payments to the transferor township shall be made as the principal or interest on the bonds or notes becomes due. Except as provided in subsection (c), the township to which the territory is transferred may impose property taxes to pay the outstanding indebtedness only within the territory that is transferred, and the territory that is transferred constitutes a special taxing district for purposes of paying the outstanding indebtedness. The department of local government finance shall determine the amount of outstanding indebtedness, if any, for which taxpayers of the territory that has been transferred remain liable under this section.

(c) After a transfer of territory of an eligible municipality is

effective under this chapter, the following apply to debt incurred by a transferor township during the period beginning one (1) year before the date on which a petition is filed with the clerk of the eligible municipality under section 7 of this chapter and ending on the date the transfer of territory is effective:

- (1) The township to which the territory is transferred is not liable for and is not required to pay any part of that indebtedness.
- (2) A property tax may not be imposed on the taxpayers of the transferred territory to pay any part of that indebtedness.
- (3) The territory that is transferred does not constitute a special taxing district for purposes of paying any part of that indebtedness.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-13

Adjustment of maximum property tax levies

Sec. 13. The department of local government finance shall adjust the maximum permissible ad valorem property tax levies of the:

- (1) transferor township; and
 - (2) township to which territory is transferred under this chapter;
- as the department of local government finance determines is necessary to reflect the transfer of the territory.

As added by P.L.234-2013, SEC.10.

IC 36-1-1.5-14

Transfer may not take effect in year preceding year in which federal census is conducted

Sec. 14. A transfer of territory under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory under this chapter that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which the federal decennial census is conducted.

As added by P.L.234-2013, SEC.10.

IC 36-1-2

Chapter 2. Definitions of General Applicability

IC 36-1-2-1

Application to title

Sec. 1. The definitions in this chapter apply throughout this title.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-1.7

"Assessed value"

Sec. 1.7. "Assessed value" has the meaning set forth in IC 6-1.1-1-3.

As added by P.L.6-1997, SEC.202.

IC 36-1-2-2

"Bonds"

Sec. 2. "Bonds" means any evidences of indebtedness, whether payable from property taxes, revenues, or any other source, but does not include notes or warrants representing temporary loans that are payable out of taxes levied and in the course of collection.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-3

"City"

Sec. 3. "City" refers to a consolidated city or other incorporated city of any class, unless the reference is to a school city.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-4

"Clerk"

Sec. 4. "Clerk" means:

- (1) clerk of the circuit court, for a county;
- (2) county auditor, for a board of county commissioners or county council;
- (3) clerk of the city-county council, for a consolidated city;
- (4) city clerk, for a second class city;
- (5) clerk-treasurer, for a third class city;
- (6) clerk-treasurer, for a town; or
- (7) chief executive officer of a political subdivision not described in subdivisions (1) through (6).

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.44, SEC.35; P.L.186-2006, SEC.1.

IC 36-1-2-4.5

"Emergency"

Sec. 4.5. "Emergency" means a situation that could not reasonably be foreseen and that threatens the public health, welfare, or safety and requires immediate action.

As added by P.L.329-1985, SEC.1.

IC 36-1-2-4.7**"Environmental restrictive ordinance"**

Sec. 4.7. "Environmental restrictive ordinance" means, with respect to land, any ordinance that:

- (1) is adopted by a municipal corporation; and
- (2) seeks to control the use of groundwater in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances or petroleum, or both.

As added by P.L.78-2009, SEC.21. Amended by P.L.159-2011, SEC.42.

IC 36-1-2-5**"Executive"**

Sec. 5. "Executive" means the:

- (1) board of commissioners, for a county that:
 - (A) does not have a consolidated city; and
 - (B) is not subject to IC 36-2-2.5;
- (2) single county executive elected under IC 3-10-2-13, for a county that:
 - (A) does not have a consolidated city; and
 - (B) is subject to IC 36-2-2.5;
- (3) mayor of the consolidated city, for a county having a consolidated city;
- (4) mayor, for a city;
- (5) president of the town council, for a town;
- (6) trustee, for a township;
- (7) superintendent, for a school corporation; or
- (8) chief executive officer, for any other political subdivision.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.8-1989, SEC.93; P.L.77-2014, SEC.9.

IC 36-1-2-6**"Fiscal body"**

Sec. 6. "Fiscal body" means:

- (1) county council, for a county not having a consolidated city;
- (2) city-county council, for a consolidated city or county having a consolidated city;
- (3) common council, for a city other than a consolidated city;
- (4) town council, for a town;
- (5) township board, for a township;
- (6) governing body or budget approval body, for any other political subdivision that has a governing body or budget approval body; or
- (7) chief executive officer of any other political subdivision that does not have a governing body or budget approval body.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.11, SEC.132; P.L.8-1987, SEC.81; P.L.8-1989, SEC.94; P.L.186-2006, SEC.2.

IC 36-1-2-7**"Fiscal officer"**

Sec. 7. "Fiscal officer" means:

- (1) auditor, for a county not having a consolidated city;
- (2) controller, for a:
 - (A) consolidated city;
 - (B) county having a consolidated city, except as otherwise provided; or
 - (C) second class city;
- (3) clerk-treasurer, for a third class city;
- (4) clerk-treasurer, for a town; or
- (5) trustee, for a township.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.44, SEC.36; P.L.227-2005, SEC.12.

IC 36-1-2-8**"Law"**

Sec. 8. "Law" includes the Constitution of Indiana, statutes, and ordinances.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-9**"Legislative body"**

Sec. 9. "Legislative body" means the:

- (1) board of county commissioners, for a county not subject to IC 36-2-2.5, IC 36-2-3.5, or IC 36-3-1;
- (2) county council, for a county subject to IC 36-2-2.5 or IC 36-2-3.5;
- (3) city-county council, for a consolidated city or county having a consolidated city;
- (4) common council, for a city other than a consolidated city;
- (5) town council, for a town;
- (6) township board, for a township;
- (7) governing body of any other political subdivision that has a governing body; or
- (8) chief executive officer of any other political subdivision that does not have a governing body.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1982, P.L.33, SEC.15; P.L.213-1986, SEC.1; P.L.8-1987, SEC.82; P.L.8-1989, SEC.95; P.L.186-2006, SEC.3; P.L.77-2014, SEC.10.

IC 36-1-2-9.5**"Materials"**

Sec. 9.5. "Materials" means supplies, goods, machinery, packaged software, and equipment.

As added by P.L.329-1985, SEC.2.

IC 36-1-2-10**"Municipal corporation"**

Sec. 10. "Municipal corporation" means unit, school corporation,

library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued. The term does not include special taxing district.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-11

"Municipality"

Sec. 11. "Municipality" means city or town.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-12

"Person"

Sec. 12. "Person" means individual, firm, limited liability company, corporation, association, fiduciary, or governmental entity.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.8-1993, SEC.512.

IC 36-1-2-13

"Political subdivision"

Sec. 13. "Political subdivision" means municipal corporation or special taxing district.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-14

Repealed

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 36-1-2-15

"Regulate"

Sec. 15. "Regulate" includes license, inspect, or prohibit.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-15.5

"Responsible bidder or quoter"

Sec. 15.5. (a) "Responsible bidder or quoter" means one who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance.

(b) "Responsive bidder or quoter" means one who has submitted a bid or quote conforming in all material respects to the specifications.

As added by P.L.329-1985, SEC.3.

IC 36-1-2-16

"Safety board"

Sec. 16. "Safety board" means the board of public safety or board of public works and safety of a city.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.309, SEC.39.

IC 36-1-2-17**"School corporation"**

Sec. 17. "School corporation" means a local public school corporation established under state law. The term includes a school city, school town, school township, metropolitan school district, consolidated school corporation, county school corporation, township school corporation, community school corporation, or united school corporation.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-18**"Special taxing district"**

Sec. 18. "Special taxing district" means a geographic area within which a special tax may be levied and collected on an ad valorem basis on property for the purpose of financing local public improvements that are:

- (1) not political or governmental in nature; and
- (2) of special benefit to the residents and property of the area.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-19**"Statute"**

Sec. 19. "Statute" means a law enacted by the general assembly.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-20**"Taxing district"**

Sec. 20. "Taxing district" means a geographic area within which property is taxed by the same taxing entities and at the same total rate.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-21**"Town"**

Sec. 21. "Town" refers to an incorporated town, unless the reference is to a school town.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-22**"Township"**

Sec. 22. "Township" refers to a civil township, unless the reference is to a congressional township or school township.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-23**"Unit"**

Sec. 23. "Unit" means county, municipality, or township.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-24

"Works board"

Sec. 24. "Works board" means the:

- (1) board of commissioners, for a county:
 - (A) not having a consolidated city; and
 - (B) not subject to IC 36-2-2.5;
- (2) single county executive for a county:
 - (A) not having a consolidated city; and
 - (B) subject to IC 36-2-2.5;
- (3) board of public works or board of public works and safety, for a city; or
- (4) town council, for a town.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.11, SEC.133; P.L.8-1989, SEC.96; P.L.77-2014, SEC.11.

IC 36-1-3

Chapter 3. Home Rule

IC 36-1-3-1

Application of chapter

Sec. 1. This chapter applies to all units.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.1.

IC 36-1-3-2

Policy

Sec. 2. The policy of the state is to grant units all the powers that they need for the effective operation of government as to local affairs.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-3

Rule of law; resolution of doubt as to existence of power of a unit

Sec. 3. (a) The rule of law that any doubt as to the existence of a power of a unit shall be resolved against its existence is abrogated.

(b) Any doubt as to the existence of a power of a unit shall be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-4

Rule of law; powers of unit

Sec. 4. (a) The rule of law that a unit has only:

- (1) powers expressly granted by statute;
- (2) powers necessarily or fairly implied in or incident to powers expressly granted; and
- (3) powers indispensable to the declared purposes of the unit;

is abrogated.

(b) A unit has:

- (1) all powers granted it by statute; and
- (2) all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute.

(c) The powers that units have under subsection (b)(1) are listed in various statutes. However, these statutes do not list the powers that units have under subsection (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-5

Powers of unit; exercise; township exception

Sec. 5. (a) Except as provided in subsection (b), a unit may exercise any power it has to the extent that the power:

- (1) is not expressly denied by the Indiana Constitution or by statute; and
- (2) is not expressly granted to another entity.

(b) A township may not exercise power the township has if

another unit in which all or part of the township is located exercises that same power.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.2.

IC 36-1-3-6

Specific manner for exercising a power; constitutional or statutory provision; ordinance; resolution

Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either:

- (1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;
- (2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or
- (3) comply with a statutory provision permitting a specific manner for exercising the power.

(c) An ordinance under subsection (b)(1) must be adopted as follows:

- (1) In a municipality, by the legislative body of the municipality.
- (2) In a county subject to IC 36-2-2.5, IC 36-2-3.5, or IC 36-3-1, by the legislative body of the county.
- (3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.2; P.L.251-1993, SEC.3; P.L.77-2014, SEC.12.

IC 36-1-3-7

Review or regulation of exercise of power by a unit

Sec. 7. State and local agencies may review or regulate the exercise of powers by a unit only to the extent prescribed by statute.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-8

Powers specifically withheld

Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

- (1) The power to condition or limit its civil liability, except as expressly granted by statute.
- (2) The power to prescribe the law governing civil actions between private persons.
- (3) The power to impose duties on another political subdivision, except as expressly granted by statute.
- (4) The power to impose a tax, except as expressly granted by statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.3; P.L.123-1987, SEC.2; P.L.3-1987, SEC.540; P.L.3-1990, SEC.122; P.L.251-1993, SEC.4; P.L.164-1995, SEC.14; P.L.1-1996, SEC.84; P.L.200-2005, SEC.4; P.L.13-2013, SEC.148.

IC 36-1-3-9

Territorial jurisdiction; exception; petition

Sec. 9. (a) The area inside the boundaries of a county comprises its territorial jurisdiction. However, a municipality has exclusive jurisdiction over bridges (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses, sewers, drains, and public grounds inside its corporate boundaries, unless a statute provides otherwise.

(b) The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas outside its corporate boundaries.

(c) Whenever a statute authorizes a municipality to exercise a power in areas outside its corporate boundaries, the power may be exercised:

(1) inside the corporate boundaries of another municipality, only if both municipalities, by ordinance, enter into an agreement under IC 36-1-7; or

(2) in a county other than the county in which the municipal hall is located, but not inside the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit shall pay the costs of the action.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3.5

Chapter 3.5. Transfer of Jurisdiction From General Assembly to Local Legislative Authorities

IC 36-1-3.5-1

Policy; purpose

Sec. 1. The policy of the state is that in all cases where a general law can be made applicable, all laws should be general and of uniform operation throughout the state, as provided by Article 4, Section 23 of the Constitution of Indiana. In addition, the policy of the state is that in local affairs where a general law cannot be made applicable, the applicable laws should be determined by the local legislative authorities under the home rule provisions of this title, particularly IC 36-1-3-6. Therefore, the purpose of this chapter is to transfer to the appropriate local authorities jurisdiction over certain local matters that, before the 1981 regular session of the general assembly, have been subjects of statutory concern.

As added by Acts 1981, P.L.17, SEC.4.

IC 36-1-3.5-2

Consolidated city and county; transfer to legislative body

Sec. 2. (a) This section applies to each consolidated city and its county.

(b) Jurisdiction over the following local matters, which before the 1982 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the consolidated city and county:

(1) Powers, duties, functions, and obligations of department of administration (formerly governed by IC 18-4-7 and IC 18-4-18).

(2) Certain powers, duties, functions, and obligations of department of metropolitan development (formerly governed by IC 18-4-8-1 through IC 18-4-8-7, IC 18-4-8-10(3), IC 18-4-8-12, IC 18-4-8-13, IC 18-4-8-14, and IC 19-8-23).

(3) Certain powers, duties, functions, and obligations of department of public safety (formerly governed by IC 18-4-12-1 through IC 18-4-12-7, IC 18-4-12-9 through IC 18-4-12-12, IC 18-4-12-14 through IC 18-4-12-16, IC 18-4-12-18, IC 18-4-12-28 through IC 18-4-12-35, IC 18-4-12-37, IC 18-4-12-38, IC 18-4-12-40, IC 18-4-12-42, IC 18-4-12-45, IC 18-4-12-49 through IC 18-4-12-59, IC 19-1-1, and IC 19-1-6).

(4) Certain powers, duties, functions, and obligations of department of public works (formerly governed by IC 18-4-2-16, IC 18-4-9-2, IC 18-4-9-3, IC 19-2-11, IC 19-2-14.5-1, IC 19-2-14.5-3, IC 19-2-14.5-4, IC 19-2-17, IC 19-2-18, IC 19-2-21, IC 19-2-22, IC 19-2-23, IC 19-4-22, and IC 19-5-10).

(5) Territory of solid waste special service district (formerly governed by IC 19-2-14.5-5 and IC 19-2-14.5-6).

(6) Certain powers, duties, functions, and obligations of Indiana department of transportation (formerly governed by IC 8-17-2, IC 18-4-10-3, IC 18-4-10-14, IC 19-5-3, IC 19-5-4, and IC 19-5-10).

(7) Street vacation procedures (formerly governed by IC 19-5-20).

(8) Certain powers, duties, functions, and obligations of department of parks and recreation (formerly governed by IC 18-4-13).

As added by Acts 1981, P.L.17, SEC.4. Amended by Acts 1982, P.L.127, SEC.7; P.L.18-1990, SEC.288.

IC 36-1-3.5-3

Transfer to legislative bodies of cities in Lake County and St. Joseph County

Sec. 3. (a) This section applies to cities in the following counties:

(1) Lake County.

(2) St. Joseph County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the city of Gary:

(1) Board of tenant concerns (formerly governed by IC 18-7-11.5).

(2) Regulation of sewers and drains (formerly governed by IC 19-2-11).

(3) Department of waterworks (formerly governed by IC 19-3-27).

(4) Benefits for certain municipal utility employees (formerly governed by IC 19-3-29).

(c) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the city of Gary, the city of Hammond, the city of South Bend, and the city of Mishawaka:

(1) Regulation of sewers and drains (formerly governed by IC 19-2-11).

(2) Department of waterworks (formerly governed by IC 19-3-27).

(3) Benefits for certain municipal utility employees (formerly governed by IC 19-3-29).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.142; P.L.170-2002, SEC.133; P.L.119-2012, SEC.169.

IC 36-1-3.5-4

Transfer to legislative bodies of cities in counties other than Marion County, Lake County, or St. Joseph County

Sec. 4. (a) This section applies to cities in counties other than the following counties:

(1) A county having a consolidated city.

- (2) Lake County.
- (3) St. Joseph County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of each city having a population of more than fifty thousand (50,000):

- (1) Regulation of sewers and drains (formerly governed by IC 19-2-11).
- (2) Benefits for certain municipal utility employees (formerly governed by IC 19-3-29).

(c) Jurisdiction over the following local matter, which before the 1981 regular session of the general assembly has been the subject of statutory concern, is transferred to the legislative body of each city having a population of more than thirty-five thousand (35,000), but less than fifty thousand (50,000):

- Regulation of sewers and drains (formerly governed by IC 19-2-11).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.143; P.L.119-2012, SEC.170.

IC 36-1-3.5-5

Transfer to legislative body of Lake County

Sec. 5. (a) This section applies to Lake County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the county:

- (1) Frequency of salary payments (formerly governed by IC 17-3-73-2).
- (2) Mileage allowances for deputy county auditors (formerly governed by IC 17-3-29-1).
- (3) County purchasing agency (formerly governed by IC 17-2-77).
- (4) County data processing agency (formerly governed by IC 17-2-74).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.144; P.L.119-2012, SEC.171.

IC 36-1-3.5-6

Transfer to county executive of Allen County

Sec. 6. (a) This section applies to Allen County.

(b) Jurisdiction over the following local matters, which before the 1982 regular session of the general assembly have been subjects of statutory concern, is transferred to the executive of the county:

- (1) Motor vehicles for the county surveyor (formerly governed by IC 17-3-69-1).
- (2) County purchasing agency (formerly governed by IC 17-2-77).
- (3) County data processing agency (formerly governed by IC 17-2-73 or IC 17-2-74).
- (4) Natural beauty roads (formerly governed by IC 19-7-17.5).

(5) Building and minimum housing department of the county (formerly governed by IC 17-2-72.3).
As added by Acts 1981, P.L.17, SEC.4. Amended by Acts 1982, P.L.127, SEC.8; P.L.12-1992, SEC.145; P.L.119-2012, SEC.172.

IC 36-1-3.5-7

Transfer to legislative body of St. Joseph County

Sec. 7. (a) This section applies to St. Joseph County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the county:

- (1) County purchasing agency (formerly governed by IC 17-2-77).
- (2) County data processing agency (formerly governed by IC 17-2-74).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.146; P.L.119-2012, SEC.173.

IC 36-1-3.5-8

Transfer to county executive of Vanderburgh County

Sec. 8. (a) This section applies to Vanderburgh County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the executive of the county:

- (1) County purchasing agency (formerly governed by IC 17-2-77).
- (2) County data processing agency (formerly governed by IC 17-2-74).
- (3) Control of county parks (formerly governed by IC 17-2-76).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.147; P.L.170-2002, SEC.134; P.L.119-2012, SEC.174.

IC 36-1-3.5-9

Transfer to county executive of certain counties

Sec. 9. (a) This section applies to the following counties:

- (1) Elkhart County.
- (2) Madison County.
- (3) Tippecanoe County.
- (4) Delaware County.
- (5) LaPorte County.
- (6) Vigo County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the executive of the county:

- (1) County purchasing agency (formerly governed by IC 17-2-77).
- (2) County data processing agency (formerly governed by IC 17-2-74).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.148; P.L.170-2002, SEC.135; P.L.119-2012, SEC.175.

IC 36-1-3.5-10

Transfer to county executive of Porter County

Sec. 10. (a) This section applies to Porter County.

(b) Jurisdiction over the following local matter, which before the 1981 regular session of the general assembly has been the subject of statutory concern, is transferred to the executive of the county:

County purchasing agency (formerly governed by IC 17-2-77).
As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.149; P.L.170-2002, SEC.136; P.L.119-2012, SEC.176.

IC 36-1-3.5-11

Counties having one second class city and populations not more than 105,000; transfer to county executive

Sec. 11. (a) This section applies to each county having a population of not more than one hundred five thousand (105,000) and only one (1) second class city.

(b) Jurisdiction over the following local matter, which before the 1981 regular session of the general assembly has been the subject of statutory concern, is transferred to the executive of the county:
County data processing agency (formerly governed by IC 17-2-74).
As added by Acts 1981, P.L.17, SEC.4.

IC 36-1-4

Chapter 4. General Corporate Powers

IC 36-1-4-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all units.

(b) Section 11 of this chapter does not apply to townships.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.5.

IC 36-1-4-2

Establishment and operation

Sec. 2. A unit may establish and operate a government.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-3

Power to sue and be sued

Sec. 3. A unit may sue and be sued.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-4

Corporate seal

Sec. 4. A unit may have a corporate seal.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-5

Acquisition of real and personal property

Sec. 5. A unit may acquire, by eminent domain or other means, and own interests in real and personal property.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-6

Interests in property; use, improvement, lease, or disposal

Sec. 6. A unit may use, improve, develop, insure, protect, maintain, lease, and dispose of its interests in property.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-7

Contracts

Sec. 7. A unit may enter into contracts.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-7.5

Environmentally contaminated real estate; agreement to defend or indemnify

Sec. 7.5. (a) This section applies to a transaction that involves a parcel of real estate that is owned or leased by a unit and the unit or a board, an agency, a department, a commission, or other division of the unit has determined in a resolution, an ordinance, a lease, a

contract, or other written instrument that the parcel of real estate:

- (1) may have environmental contamination:
 - (A) that occurred during or before the time the unit owned or leased the parcel of real estate; and
 - (B) for which the unit may be liable under applicable laws; and
- (2) will be used in connection with an economic development project that will:
 - (A) promote opportunities for employment of the citizens of the unit;
 - (B) attract new business enterprises to the unit; or
 - (C) retain or expand a business enterprise within the unit.

(b) Except as provided in IC 26-2-5-1 and notwithstanding defenses available and immunity provided in IC 34-13-3, a unit may enter into a contract or lease that contains a provision, a clause, a covenant, a promise, or an agreement by the unit to defend or indemnify any person against any claim, cause of action, demand, cost, judgment, or other loss of any kind provided for under the terms of the contract.

(c) A unit may not indemnify a person against any claim, cause of action, demand, cost, judgment, or other loss resulting from environmental contamination of the parcel of real estate caused by the negligence or willful misconduct of the indemnified person occurring after the effective date of the indemnification.

(d) Nothing in this section may be construed to limit any rights that a unit may have to defend or indemnify a person under any other law.

As added by P.L.123-1996, SEC.18. Amended by P.L.1-1998, SEC.201.

IC 36-1-4-8

Payment of debts

Sec. 8. A unit may pay debts.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-9

Borrowing of money

Sec. 9. A unit may borrow money.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-10

Acceptance of donations

Sec. 10. A unit may accept donations of money or other property and execute any documents necessary to receive money or other property from the state or federal government or any other source.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-11

Ordinances

Sec. 11. A unit may adopt, codify, and enforce ordinances.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-12

Attendance of witnesses and production of documents at meetings

Sec. 12. A unit may require the attendance of witnesses and the production of documents relevant to matters being considered at meetings of a department or agency.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-13

Contempt and disorder in rooms of department

Sec. 13. A unit may punish contempt and disorder in rooms of a department or agency.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-14

Employees; employment and discharge; class based on merit and qualification

Sec. 14. A unit may hire and discharge employees and establish a system of employment for any class of employees based on merit and qualification.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-15

Compensation of officers and employees

Sec. 15. A unit may fix the level of compensation of its officers and employees.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-16

Ratification of actions of officers or employees; procedure

Sec. 16. A unit may ratify any action of the unit or its officers or employees if that action could have been approved in advance. Ratification of an action under this section must be made by the same procedure that would have been required for approval of the action in advance.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-17

Compromise of claims against unit; collecting owed money

Sec. 17. (a) A unit may compromise claims made against it.

(b) A unit or a person designated in writing by the unit may do the following:

(1) Collect any money that is owed to the unit.

(2) Compromise the amount of money owed to the unit.

(c) A unit shall determine the costs of collecting money under this section. The costs of collection, including reasonable attorney's fees, may be added to money that is owed and collected under this subsection.

(d) A unit or the unit's agent that collects money under this section

shall deposit that money, less the costs of collection, in the account required by law.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.64-1989, SEC.2; P.L.57-1993, SEC.14.

IC 36-1-4-18

Extraterritorial powers

Sec. 18. A municipality may exercise powers granted by sections 5 and 6 of this chapter in areas within four (4) miles outside its corporate boundaries.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-19

Applicability of parking ordinances, zoning ordinances, and other requirements in Vanderburgh County

Sec. 19. (a) As used in this section, "subject property" refers to the property in Vanderburgh County within the Northwest Quarter of Section 26, Township 6 South, Range 10 West.

(b) An ordinance of a unit that regulates the parking of motor vehicles is not applicable within the subject property.

(c) A zoning ordinance of a unit is not applicable within the subject property.

(d) Any requirements for municipal roads or streets do not apply to a road or street within the subject property.

As added by P.L.195-2001, SEC.13. Amended by P.L.33-2003, SEC.1.

IC 36-1-4-20

Expenditures in support of military facilities

Sec. 20. (a) This section does not apply to units located in a county for which the total amount of net property taxes allocated to all allocation areas or other tax increment financing areas established by a redevelopment commission, military base reuse authority, military base development authority, or another similar entity in the county in the preceding calendar year exceeded nineteen percent (19%) of the total net property taxes billed in the county in the preceding calendar year.

(b) As used in this section, "active military base" means an active military installation that is used for the deployment, redeployment, mobilization, concentration, movement, exercise, or training of active or reserve components of the armed forces of the United States or of active or reserve components of the Indiana National Guard or Indiana Air National Guard. The term also includes a military installation that is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

(c) Upon appropriation by the fiscal body of a unit, the unit may expend money:

(1) in direct support of:

(A) an active military base located within the unit; or

(B) an entity located within:

- (i) the territory or facilities of a military base or former military base within the unit that is scheduled for closing or is completely or partially inactive or closed; or
- (ii) any territory or facilities of the United States Department of Defense within the unit that are scheduled for closing or are completely or partially inactive or closed;

including direct support for the promotion of the active military base or entity, the growth of the active military base or entity, and activities at the active military base or entity; and

- (2) in support of any other entity that provides services or direct support to an active military base or entity described in subdivision (1).

As added by P.L.95-2014, SEC.1.

IC 36-1-5

Chapter 5. Codification of Ordinances

IC 36-1-5-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-2

Repealed

(Repealed by P.L.213-1986, SEC.12.)

IC 36-1-5-3

Compilation of code

Sec. 3. The legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances.
As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.5.

IC 36-1-5-4

Incorporation of material into ordinance or code by reference; procedure

Sec. 4. The legislative body of a unit may incorporate by reference into an ordinance or code any material. The ordinance or code must state that two (2) copies of the material are on file in the office of the clerk for the legislative body for public inspection, and the copies must be on file as stated for public inspection.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-5

Printed code constitutes presumptive evidence

Sec. 5. A printed code that has taken effect constitutes presumptive evidence in any legal proceeding:

- (1) of the provisions of the code;
- (2) of the date of adoption of the code;
- (3) that the code has been properly signed, attested, recorded, and approved; and
- (4) that any public hearings required have been held, with any notices required given.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-6

Restated or reenacted provision of original ordinance

Sec. 6. If the legislative body determines, and declares in a provision of a code, that the provision is a restatement or reenactment of an original ordinance or amendment thereof, then the legal conditions for the effectiveness of an original ordinance need not be met. Such a restated or reenacted provision shall be considered reordained by the adoption of the code.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-6

Chapter 6. Enforcement of Ordinances

IC 36-1-6-1

Application of chapter

Sec. 1. This chapter applies to all municipal corporations having the power to adopt ordinances.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-6-2

Action to bring compliance with ordinance conditions; expense as lien against property; enforcement of delinquent fees and penalties

Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. Continuous enforcement orders (as defined in IC 36-7-9-2) can be enforced and liens may be assessed without the need for additional notice. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

- (1) ten thousand dollars (\$10,000) for real property that:
 - (A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or
 - (B) is unimproved; or
- (2) twenty thousand dollars (\$20,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

- (1) a list of delinquent fees and penalties that are enforceable under this section, including:
 - (A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
 - (B) a description of the premises, as shown on the records of

the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.50-2002, SEC.1; P.L.144-2003, SEC.1; P.L.177-2003, SEC.2; P.L.131-2005, SEC.5; P.L.88-2006, SEC.7; P.L.194-2007, SEC.8; P.L.88-2009, SEC.5.

IC 36-1-6-3

Proceeding to enforce ordinance; law applicable

Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

(1) an admission of violation before the violations clerk under IC 33-36; or

(2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

(c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.108, SEC.39; P.L.177-1988, SEC.8; P.L.130-1991, SEC.35; P.L.1-1998, SEC.202; P.L.98-2004, SEC.159.

IC 36-1-6-4

Civil action by municipal corporation; action by court

Sec. 4. (a) A municipal corporation may bring a civil action as provided in IC 34-28-5-1 if a person:

- (1) violates an ordinance regulating or prohibiting a condition or use of property; or
- (2) engages in conduct without a license or permit if an ordinance requires a license or permit to engage in the conduct.

(b) A court may take any appropriate action in a proceeding under this section, including any of the following actions:

- (1) Issuing an injunction.
- (2) Entering a judgment.
- (3) Issuing a continuous enforcement order (as defined in IC 36-7-9-2).
- (4) Ordering the suspension or revocation of a license.
- (5) Ordering an inspection.
- (6) Ordering a property vacated.
- (7) Ordering a structure demolished.
- (8) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).
- (9) Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.
- (10) Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.
- (11) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.194-2007, SEC.9; P.L.88-2009, SEC.6.

IC 36-1-6-5

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-6

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-7

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-8

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-9

Enforcement of ordinances through administrative proceedings; appeal

Sec. 9. (a) The legislative body of a county or municipality may adopt an ordinance providing that certain other ordinances may be enforced through a proceeding before an administrative body of the county or municipality.

(b) An ordinance adopted under subsection (a) must designate the following:

- (1) The ordinances that may be enforced through an administrative proceeding.
- (2) The administrative body before which the proceeding may be brought.

(c) An ordinance may not be designated under subsection (b) for enforcement through an administrative proceeding unless the ordinance restricts or prohibits actions harmful to the land, air, or water, governs use of the public way, or governs the standing or parking of vehicles.

(d) In a proceeding to enforce an ordinance brought before an administrative body designated under subsection (b):

- (1) a violation of the ordinance must be proven by a preponderance of the evidence; and
- (2) the administrative body may not impose a penalty other than a fine in an amount within the limit set forth in IC 36-1-3-8(10).

(e) A person who receives a penalty under subsection (d) may appeal the order imposing the penalty to a court of record in:

- (1) the county that brought the enforcement proceeding if the proceeding is brought by a county; or
- (2) the county in which the municipality is located if the proceeding is brought by a municipality.

(f) An appeal under subsection (e) from an order imposing a penalty must be filed not more than sixty (60) days after the day on which the order is entered.

As added by P.L.130-1991, SEC.36. Amended by P.L.64-1992, SEC.8; P.L.308-1995, SEC.1.

IC 36-1-6-10

Establishing election districts

Sec. 10. (a) This section applies to an ordinance adopted by a unit to establish executive, fiscal, or legislative body election districts within the unit.

(b) Except as otherwise provided in the ordinance, the ordinance takes effect immediately upon passage. However, a previously adopted ordinance establishing election districts remains in effect for the purpose of filling a vacancy in the executive, fiscal, or legislative body until the expiration of the term of that office.

(c) A reference in the ordinance to the boundary of a political subdivision, a precinct boundary, or an election district boundary refers to the precinct or boundary as the precinct or boundary existed on the date of adoption of the ordinance. A change in the boundary of a political subdivision, precinct, or election district following the date of adoption of the ordinance does not alter the boundaries of the election districts established by the ordinance.

As added by P.L.3-1995, SEC.152. Amended by P.L.3-1997, SEC.449; P.L.176-1999, SEC.131.

IC 36-1-6-11

Notices to department of environmental management concerning environmental restrictive ordinances; waiver of notice; ordinance must state notice requirements, but is not void for failure to state

Sec. 11. (a) Subject to subsection (e), the legislative body of a municipal corporation shall:

(1) subject to subsection (b), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(b) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (a)(1).

(c) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (a).

(d) The failure of an environmental restrictive ordinance to comply with subsection (c) does not void the ordinance.

(e) The notice requirements of subsection (a) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (a) as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

As added by P.L.78-2009, SEC.22. Amended by P.L.159-2011, SEC.43.

IC 36-1-7
Chapter 7. Interlocal Cooperation

IC 36-1-7-1

Application of chapter

Sec. 1. This chapter applies to the following:

- (1) The state.
- (2) All political subdivisions.
- (3) All state agencies.
- (4) Any of the following created by state law:
 - (A) Public instrumentalities.
 - (B) Public corporate bodies.
- (5) Another state to the extent authorized by the law of that state.
- (6) Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.
- (7) Agencies of the federal government, to the extent authorized by federal laws.
- (8) Indiana charter schools.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.5-1993, SEC.336; P.L.221-2007, SEC.24; P.L.38-2014, SEC.11.

IC 36-1-7-2

Permissible powers

Sec. 2. (a) A power that may be exercised by an Indiana political subdivision and by one (1) or more other governmental entities may be exercised:

- (1) by one (1) or more entities on behalf of others; or
- (2) jointly by the entities.

Entities that want to do this must, by ordinance or resolution, enter into a written agreement under section 3 or 9 of this chapter.

(b) Notwithstanding subsection (a), Indiana governmental entities that want only to buy, sell, or exchange services, supplies, or equipment between or among themselves may enter into contracts to do this and follow section 12 of this chapter.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-3

Agreements; contents; powers under agreements

Sec. 3. (a) An agreement under this section must provide for the following:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
- (5) Administration through:

(A) a separate legal entity, the nature, organization, composition, and powers of which must be provided; or

(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under IC 10-14-5.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.56-1988, SEC.11; P.L.30-1998, SEC.3; P.L.2-2003, SEC.99.

IC 36-1-7-4

Agreements; when attorney general's approval required

Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

(A) only Indiana political subdivisions; or

(B) an Indiana political subdivision and:

(i) a public instrumentality; or

(ii) a public corporate body;

created by state law;

(2) is approved by the fiscal body of each party that is an Indiana political subdivision either before or after the agreement is entered into by the executive of the party; and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties that is an Indiana political subdivision the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for the attorney general's approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes, in which case the attorney general shall detail in writing for the parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to the attorney general, it is considered approved.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.221-2007, SEC.25.

IC 36-1-7-5

Agreements; approval of state officer or state agency having power to control services or facilities; reciprocal borrowing agreements

Sec. 5. (a) Except as provided in subsection (b) and regardless of the requirements of section 4 of this chapter, if an agreement under section 3 of this chapter concerns the provision of services or facilities that a state officer or state agency has power to control, the agreement must be submitted to that officer or agency for approval before it takes effect.

(b) If a reciprocal borrowing agreement under section 3 of this chapter concerns the provision of library services or facilities between public libraries that are of the same nature as the services provided under the statewide library card program under IC 4-23-7.1-5.1, the reciprocal borrowing agreement is not required to be submitted to the Indiana library and historical board for approval before the reciprocal borrowing agreement takes effect, but a copy of the reciprocal borrowing agreement shall be submitted to the state library.

(c) Approval or disapproval is governed by the same provisions prescribed by section 4(b) of this chapter for the attorney general.
As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.37-1993, SEC.4.

IC 36-1-7-6

Agreements; recording; filing

Sec. 6. Before it takes effect, an agreement under section 3 of this chapter must be recorded with the county recorder. Not later than sixty (60) days after it takes effect, such an agreement must be filed with the state board of accounts for audit purposes.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-7

Agreements; law enforcement or firefighting services

Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire department, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency

requesting assistance shall pay all travel expenses, and all visiting personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under IC 10-14-5. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.28-1988, SEC.115; P.L.229-1996, SEC.1; P.L.30-1998, SEC.4; P.L.1-1999, SEC.80; P.L.2-2003, SEC.100.

IC 36-1-7-8

Interstate compact

Sec. 8. If any entities of other jurisdictions are parties to an agreement under section 3 of this chapter, the agreement constitutes an interstate compact. However, in a case or controversy involving such an agreement, all parties to the agreement shall be considered real parties in interest; and if the state suffers any damages or incurs any liability as a result of being joined as a party in such a case or controversy, it may bring an action against any entity causing the state to suffer damages or incur liability.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-9

Agreements between municipality and county; contents

Sec. 9. (a) This section may be used only for an agreement between an Indiana municipality and the executive of the county in which it is located concerning highway construction and maintenance and related matters.

(b) An agreement under this section must provide for the following:

- (1) Its duration, which may not be more than four (4) years.
- (2) The specific functions and services to be performed or furnished by the county on behalf of the municipality.

In addition, such an agreement may provide for any other appropriate matters.

(c) An agreement under this section may provide for either of the following:

- (1) A stipulation that distributions from the motor vehicle highway account under IC 8-14-1, the local road and street account under IC 8-14-2, or both, be made to the county rather than to the municipality.
- (2) A stipulation that the municipality will appropriate a specified part of those distributions for purposes listed in the agreement.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-10

Agreements between municipality and county; prerequisites to

taking effect

Sec. 10. Before it takes effect, an agreement under section 9 of this chapter must be:

- (1) approved by the fiscal body of each party;
- (2) recorded with the county recorder;
- (3) filed with the executive of the municipality and the auditor of the county; and
- (4) filed with the auditor of state.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-11**Power to appropriate money and provide personnel, services, and facilities**

Sec. 11. An entity entering into an agreement under this chapter may:

- (1) appropriate monies; and
- (2) provide personnel, services, and facilities;

to carry out the agreement.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-11.5**"Economic development project"; agreements related to economic development projects**

Sec. 11.5. (a) As used in this section, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1(c). The term also includes any project related to transportation services, transportation infrastructure, or the development or construction of a hotel or other tourism destination.

(b) An entity entering into an agreement under this chapter that is related to an economic development project may do any of the following to carry out the agreement:

- (1) After appropriation by the entity's fiscal body, transfer money derived from any source to any of the following:
 - (A) One (1) or more entities that have entered into the agreement.
 - (B) An economic development entity (as defined in section 15 of this chapter) established by an entity that has entered into the agreement.
 - (C) A regional development authority, including the northwest Indiana regional development authority established by IC 36-7.5-2-1.
 - (D) A regional transportation authority including the regional bus authority established under IC 36-9-3-2(c).
- (2) Transfer any property or provide personnel, services, or facilities to any entity or authority described in subdivision (1)(A) through (1)(D).

As added by P.L.169-2006, SEC.45.

IC 36-1-7-12**Purchase, sale, or exchange of services, supplies, or equipment**

Sec. 12. (a) Whenever a contract provides for the purchase, sale, or exchange of services, supplies, or equipment between or among Indiana governmental entities only, no notice by publication or posting is required.

(b) Whenever a contract provides for one (1) Indiana governmental entity to make a purchase for another, compliance by the one with the applicable statutes governing public bids constitutes compliance by the other.

(c) A governmental entity may make a purchase from any other governmental entity or under another governmental entity's referenced written contract if there is compliance with state purchasing law by the original purchasing unit.

(d) Two (2) or more governmental entities may procure together or with a nonprofit entity if the requirements of the public purchasing statutes are met.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.195-2007, SEC.6.

IC 36-1-7-13

Agreements between school corporations; rights and privileges of teachers

Sec. 13. Whenever an agreement authorized by this chapter is between school corporations, teachers employed under the agreement have the same rights and privileges as teachers employed under IC 20-26-10-5, IC 20-26-10-6, and IC 20-26-10-7.

As added by P.L.110-1984, SEC.3. Amended by P.L.1-2005, SEC.230.

IC 36-1-7-15

Agreements between economic development entities

Sec. 15. (a) As used in this section, "economic development entity" means any of the following:

- (1) A department of redevelopment organized under IC 36-7-14.
- (2) A department of metropolitan development under IC 36-7-15.1.
- (3) A port authority organized under IC 8-10-5.
- (4) An airport authority organized under IC 8-22-3.
- (5) The Indiana finance authority.

(b) Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter if the agreement is approved by each entity's governing body.

(c) A party to an agreement under this section may do one (1) or more of the following:

- (1) Except as provided in subsection (d), grant one (1) or more of its powers to another party to the agreement.
- (2) Exercise any power granted to it by a party to the agreement.
- (3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under

IC 5-1-14-4.

(d) An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5, IC 36-7-14-39, or IC 36-7-15.1.

(e) An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

(f) An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

As added by P.L.108-1993, SEC.12. Amended by P.L.115-1995, SEC.14; P.L.85-1996, SEC.10; P.L.170-2002, SEC.137; P.L.203-2005, SEC.7; P.L.221-2007, SEC.26.

IC 36-1-7-16

Transfer, combination, or sharing of powers, duties, functions, or resources; budgets, rates, and levies

Sec. 16. (a) This section applies to a political subdivision if:

(1) the political subdivision enters into an agreement with one (1) or more other political subdivisions under this chapter to transfer, combine, or share powers, duties, functions, or resources; and

(2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

(A) savings; or

(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place.

(b) The political subdivision shall specify in the agreement described in subsection (a) the amount (if any) of the decrease that the department of local government finance shall make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of the political subdivision to:

(1) eliminate double taxation by different political subdivisions for services; or

(2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

(c) The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment (if any) to be made under subsection (b). The amount of the adjustment (if any) to be made under subsection (b) must comply with the agreement under this chapter under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

As added by P.L.58-2011, SEC.1. Amended by P.L.255-2013, SEC.2.

IC 36-1-7-17

Expired

(Expired 3-15-2014 by P.L.212-2013, SEC.1.)

IC 36-1-8

Chapter 8. Miscellaneous Fiscal and Administrative Provisions

IC 36-1-8-1

Application of chapter

Sec. 1. This chapter applies to all political subdivisions.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-8-2

Cash change fund; establishment; use

Sec. 2. (a) The fiscal body of a political subdivision may permit any of its officers or employees having a duty to collect cash revenues to establish a cash change fund. Such a fund must be established by a warrant drawn on the appropriate fund of the political subdivision in favor of the officer or employee, in an amount determined by the fiscal body, without need for appropriation to be made for it.

(b) The officer or employee who establishes a cash change fund shall convert the warrant to cash, shall use it to make change when collecting cash revenues, and shall account for it in the same manner as is required for other funds of the political subdivision.

(c) The fiscal body shall require the entire cash change fund to be returned to the appropriate fund whenever there is a change in the custodian of the fund or if the fund is no longer needed.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-8-3

Petty cash fund; establishment; use; reimbursement

Sec. 3. (a) The fiscal body of a political subdivision may establish a petty cash fund for any of its offices in a like manner to that prescribed by section 2 of this chapter.

(b) The custodian of a petty cash fund shall use it to pay small or emergency items of operating expense. A receipt shall be taken for each expenditure made from the fund.

(c) The custodian of a petty cash fund shall periodically file a voucher, with all original receipts totaling the cash claimed expended being attached to it, so that the fund can be reimbursed for expenditures from it. Reimbursement must be approved and made in the same manner as is required for other expenditures of the political subdivision.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-8-4

Transfer of prescribed amount to fund in need of money for cash flow purposes; extension of time for transfer

Sec. 4. (a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met:

- (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
- (3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs.
- (4) The amount transferred must be returned to the other fund at the end of the prescribed period.
- (5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred.

(b) If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following:

- (1) Passes an ordinance or a resolution that contains the following:
 - (A) A statement that the fiscal body has determined that an emergency exists.
 - (B) A brief description of the grounds for the emergency.
 - (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.
- (2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.57-1991, SEC.3; P.L.10-1997, SEC.24; P.L.90-2002, SEC.460.

IC 36-1-8-5

Funds raised by general or special tax levy; disposition of unused balance; transfers to local rainy day fund

Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

- (1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.
- (2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.
- (3) Funds of a township for redemption of township assistance obligations, to the township assistance fund of the township or rainy day fund of the township, as provided in section 5.1 of this

chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township. However, if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) If there is:

(1) an unexpended balance in the debt service fund of any school township; and

(2) no outstanding bonded or other indebtedness of the school township to the payment of which the unexpended balance or any part of the unexpended balance can be legally applied;

the township trustee of the township, with the approval of the township board, may transfer the unexpended balance in the debt service fund to the school general fund of the school township.

(e) Whenever any township has collected any fund for the special or specific purpose of erecting or constructing a school building and the township trustee of the township decides to abandon the proposed work of erecting or constructing the school building, the township trustee of the township shall transfer the fund collected for the special or specific purpose to the township fund of the township, upon the order of the township board to make the transfer. It is lawful thereafter to use the funds for any purpose for which the township funds of the township may be used.

(f) Transfers to a political subdivision's rainy day fund may be made at any time during the political subdivision's fiscal year.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-2001, SEC.1; P.L.173-2003, SEC.18; P.L.73-2005, SEC.171; P.L.169-2006, SEC.46; P.L.2-2006, SEC.185; P.L.1-2007, SEC.238.

IC 36-1-8-5.1

Rainy day funds established by political subdivisions

Sec. 5.1. (a) A political subdivision may establish a rainy day fund by the adoption of:

(1) an ordinance, in the case of a county, city, or town; or

(2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must

specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund, which may include the following:

(A) Unused and unencumbered funds under:

- (i) section 5 of this chapter;
- (ii) IC 6-3.5-1.1-21.1;
- (iii) IC 6-3.5-6-17.3; or
- (iv) IC 6-3.5-7-17.3.

(B) Any other funding source:

- (i) specified in the ordinance or resolution adopted under this section; and

(ii) not otherwise prohibited by law.

(c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money.

(d) In any fiscal year, a political subdivision may, at any time, do the following:

(1) Transfer any unused and unencumbered funds specified in subsection (b)(2)(A) from any fiscal year to the rainy day fund.

(2) Transfer any other unobligated cash balances from any fiscal year that are not otherwise identified in subsection (b)(2)(A) or section 5 of this chapter to the rainy day fund as long as the transfer satisfies the following requirements:

(A) The amount of the transfer is authorized by and identified in an ordinance or resolution.

(B) The amount of the transfer is not more than ten percent (10%) of the political subdivision's total annual budget adopted under IC 6-1.1-17 for that fiscal year.

(C) The transfer is not made from a debt service fund.

(e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The political subdivision may adopt a subsequent ordinance or resolution authorizing the use of another funding source.

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

(g) A county, city, or town may at any time, by ordinance or resolution, transfer to:

(1) its general fund; or

(2) any other appropriated funds of the county, city, or town; money that has been deposited in the rainy day fund of the county, city, or town.

As added by P.L.251-2001, SEC.2. Amended by P.L.90-2002, SEC.461; P.L.173-2003, SEC.19; P.L.267-2003, SEC.15; P.L.81-2004, SEC.45; P.L.53-2011, SEC.2; P.L.105-2013, SEC.1; P.L.288-2013, SEC.71.

IC 36-1-8-6

Reversion of unused appropriation; funds received from state or

the United States

Sec. 6. (a) The unused and unencumbered balance of an appropriation made by a unit for any purpose reverts, at the end of the unit's fiscal year, to the fund from which the appropriation was made, unless a statute provides otherwise.

(b) Any amount necessary to pay a bill, judgment, or valid claim concerning any balance that reverts under subsection (a) shall be taken from the fund to which it reverted to pay the bill, judgment, or valid claim.

(c) Notwithstanding subsection (a), if an appropriation is made by a unit to establish or maintain a program of self-insurance by the unit, the balance described in subsection (a) reverts to the fund only if the fiscal body of the unit specifically adopts subsection (a) when it makes the appropriation.

(d) Subsection (a) does not apply to dedicated or appropriated funds received from the state or the United States, to funds of municipal utilities, or to balances of appropriations made from the general fund of a city for transfer to the aviation fund of the city.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-8-7

Bank deposit or cash on hand constituting pledge or guaranty

Sec. 7. A bank deposit or cash on hand, together with any accrued interest, constituting a pledge or guaranty on behalf of a political subdivision shall be deposited as a part of the funds of the political subdivision and be credited to the proper funds by the officers having custody of those funds after one (1) year has elapsed after the period for which the pledge or guaranty has been posted to a special account.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-8-8

Protection of employees reporting violations of federal, state, or local laws; disciplinary actions; procedures

Sec. 8. (a) An employee of a political subdivision may report in writing the existence of:

- (1) a violation of a federal law or regulation;
- (2) a violation of a state law or rule;
- (3) a violation of an ordinance of a political subdivision; or
- (4) the misuse of public resources;

first to a supervisor or appointing authority, unless the supervisor or appointing authority is the person whom the employee believes is committing the violation or misuse of public resources. In that case, the employee may report the violation or misuse of public resources in writing to either the supervisor or appointing authority or any official or agency entitled to receive a report from the state ethics commission under IC 4-2-6-4(b)(2)(G) or IC 4-2-6-4(b)(2)(H). If a good faith effort is not made to correct the problem within a reasonable time, the employee may submit a written report of the incident to any person, agency, or organization.

(b) For having made a report under subsection (a), an employee may not:

- (1) be dismissed from employment;
- (2) have salary increases or employment related benefits withheld;
- (3) be transferred or reassigned;
- (4) be denied a promotion that the employee otherwise would have received; or
- (5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority or the appointing authority's designee. However, any employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure set forth in any personnel policy or collective bargaining agreement adopted by the political subdivision.

(d) An employer who violates this section commits a Class A infraction.

As added by P.L.32-1987, SEC.4. Amended by P.L.9-1990, SEC.16.

IC 36-1-8-9

Riverboat fund establishment; administration and investment of funds

Sec. 9. (a) Each unit that receives:

- (1) tax revenue under IC 4-33-12-6 or IC 4-33-13;
- (2) revenue under an agreement to share the tax revenue received under IC 4-33-12 or IC 4-33-13 by another unit; or
- (3) revenue under a development agreement (as defined in section 9.5 of this chapter);

may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The riverboat fund established under subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

As added by P.L.90-1997, SEC.7. Amended by P.L.199-2005, SEC.28.

IC 36-1-8-9.1

Legalization of certain funds established before July 1, 1997; fund considered riverboat fund for purposes of section 9 of this chapter

Sec. 9.1. (a) A fund that:

- (1) was established by a unit before July 1, 1997; and

(2) would have been considered a riverboat fund for purposes of section 9 of this chapter if section 9 of this chapter had been in effect before July 1, 1997;
is legalized and validated.

(b) A fund described in subsection (a) is considered a riverboat fund for purposes of section 9 of this chapter.

As added by P.L.220-2011, SEC.640.

IC 36-1-8-9.2

Separate fund for deposit of county slot machine wagering fee revenue

Sec. 9.2. (a) Each unit that receives:

(1) tax revenue under IC 4-35-8.5; or

(2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit;

shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The fund established by subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

As added by P.L.142-2009, SEC.31.

IC 36-1-8-9.5

"Development agreement"

Sec. 9.5. (a) As used in this section, "development agreement" means an agreement between a licensed owner (as defined in IC 4-33-2-13) and a unit setting forth the licensed owner's financial commitments to support economic development in the unit.

(b) Funds received by a unit under a development agreement are public funds (as defined in IC 5-13-4-20).

(c) Funds received under a development agreement:

(1) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(2) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(3) are considered miscellaneous revenue.

As added by P.L.199-2005, SEC.29.

IC 36-1-8-10

"Board" defined; political affiliation of board appointees

Sec. 10. (a) As used in this section, "board" means an administration, an agency, an authority, a board, a bureau, a

commission, a committee, a council, a department, a division, an institution, an office, a service, or another similarly designated body of a political subdivision.

(b) Whenever a law or political subdivision's resolution requires that an appointment to a board be conditioned upon the political affiliation of the appointee, or that the membership of a board not exceed a stated number of members from the same political party, at the time of an appointment, one (1) of the following must apply to the appointee:

(1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation.

(2) If the appointee has never voted in a primary election, the appointee claims a party affiliation.

(3) The appointee is certified as a member of that party by the party's county chairman for the county in which the appointee resides.

(c) Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term.

As added by P.L.185-1988, SEC.1. Amended by P.L.68-1996, SEC.4; P.L.167-2001, SEC.10; P.L.199-2001, SEC.28; P.L.126-2002, SEC.91.

IC 36-1-8-10.5

Employee of political subdivision as candidate for or appointed to office

Sec. 10.5. (a) This section does not apply to the following:

(1) An elected or appointed officer.

(2) An individual described in IC 20-26-4-11.

(b) Subject to IC 3-5-9, an employee of a political subdivision may:

(1) be a candidate for any elected office and serve in that office if elected; or

(2) be appointed to any office and serve in that office if appointed;

without having to resign as an employee of the political subdivision.

As added by P.L.26-2000, SEC.45. Amended by P.L.1-2005, SEC.231; P.L.135-2012, SEC.6.

IC 36-1-8-11

Methods of payments to political subdivisions or utilities; transaction and other fees

Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

(1) credit card;

(2) debit card;

- (3) charge card; or
- (4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, the political subdivision or municipally owned utility may collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the political subdivision or municipally owned utility or charged directly to the political subdivision's or municipally owned utility's account, the political subdivision or municipally owned utility may collect from the person using the card either or both of the following:

- (1) An official fee that may not exceed the transaction charge or discount fee charged to the political subdivision or municipally owned utility by bank or credit card vendors.
- (2) A reasonable convenience fee:
 - (A) that may not exceed three dollars (\$3); and
 - (B) that must be uniform regardless of the bank card or credit card used.

The fees described in subdivisions (1) and (2) may be collected regardless of retail merchant agreements between the bank and credit card vendors that may prohibit such fees. These fees are permitted additional charges under IC 24-4.5-3-202.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

As added by P.L.40-1996, SEC.5. Amended by P.L.18-1996, SEC.32; P.L.2-1997, SEC.78; P.L.173-2003, SEC.20; P.L.137-2012, SEC.115; P.L.105-2013, SEC.2.

IC 36-1-8-11.5

Payment of claims; electronic funds transfer

Sec. 11.5. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

(b) The fiscal body of a political subdivision or the board of a municipally owned utility may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a proper body adopts a resolution under this subsection, the political subdivision or municipally owned utility may pay money from its funds by electronic funds transfer.

(c) A political subdivision or municipally owned utility that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by political subdivisions or municipal utilities.

As added by P.L.137-2012, SEC.116.

IC 36-1-8-12

Special fund for state grant money and local matching money; reversion of unused money

Sec. 12. (a) If a political subdivision other than a school corporation receives state grant money requiring local matching money, the political subdivision shall create a special fund and deposit the grant money and matching money into the special fund. The money in the fund may be used only for the purposes of the grant.

(b) If a political subdivision completes the project for which the state grant money was provided and money remains in the fund:

- (1) the political subdivision shall transfer the state's share of the remaining money to the treasurer of state for deposit in the fund from which the grant was made; and
- (2) the political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund.

As added by P.L.10-1997, SEC.25. Amended by P.L.68-2001, SEC.9.

IC 36-1-8-13

Referral of dishonored checks to prosecuting attorney

Sec. 13. A unit that is unable to obtain payment of a dishonored check shall, not later than ninety (90) days after the check is initially received by the unit, refer the matter to the prosecuting attorney for the county where the dishonored check was received for prosecution.

As added by P.L.98-2000, SEC.17.

IC 36-1-8-14

Three-fourths vote rounded to nearest whole number

Sec. 14. Whenever this title requires an action to be taken by a three-fourths (3/4) vote, the number of votes necessary to satisfy the requirement is rounded to the nearest whole number.

As added by P.L.125-2001, SEC.1.

IC 36-1-8-14.2

Payments in lieu of taxes; exemptions

Sec. 14.2. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.

(d) Subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7, if the improvements that qualify the real property for an exemption were begun or acquired after December 31, 2001. The ordinance remains in full force and effect until repealed or modified by the governing body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). Except as provided in subsection (j), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the unit's affordable housing fund established under IC 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(i) This section does not apply to a county that contains a consolidated city or to a political subdivision of the county.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

As added by P.L.186-2001, SEC.8. Amended by P.L.181-2006, SEC.61; P.L.219-2007, SEC.105; P.L.146-2008, SEC.686.

IC 36-1-8-15

Shortened term of county office under constitution; benefits

Sec. 15. (a) This section is enacted to implement Article 6, Section 2(b) of the Constitution of the State of Indiana.

(b) This section applies to an individual:

- (1) who was elected at least two (2) times to a county office; and
- (2) who would have served at least eight (8) years in the elected county office had the individual's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana.

(c) As used in this section, "benefit of office" refers to a benefit to which an individual who holds an elected county office is entitled because of a statute, an ordinance, or a contract.

(d) As used in this section, "county office" refers to any of the county offices referred to in Article 6, Section 2 of the Constitution of the State of Indiana.

(e) An individual described in subsection (b) who is otherwise entitled to a benefit of office may not be deprived of the benefit of office based on a requirement in any other statute or any ordinance or contract that to be eligible for the benefit of office an individual must hold elected county office for at least eight (8) years.

As added by P.L.88-2005, SEC.14.

IC 36-1-8-16

Property taxes collected for property disposed by county executive

Sec. 16. (a) If a county executive disposes of real property, the property taxes collected for each item of the real property in the first year the item of real property is subject to taxation after the year the real property is sold or otherwise conveyed shall be disbursed to the county executive that sold or otherwise conveyed the item of real property.

(b) Disbursements to the county executive under subsection (a) shall be deposited into the county general fund, the redevelopment fund, the unsafe building fund, or the housing trust fund and shall be used only for one (1) or more of the purposes authorized under IC 36-7-14-22.5 or IC 36-7-15.1-15.5.

(c) The county executive shall forward a copy of each resolution that disposes or otherwise conveys real property to the county auditor.

(d) The disbursement of property taxes under subsection (a) shall terminate in the second year the item of real property is subject to

taxation after the property is sold or otherwise conveyed.
As added by P.L.169-2006, SEC.47.

IC 36-1-8-17

Combination or reorganization; budgets, rates, and levies

Sec. 17. (a) This section applies to a political subdivision if:

- (1) the political subdivision combines or reorganizes a department, agency, or function of the political subdivision; and
- (2) the political subdivision realizes through the combination or reorganization a:

(A) savings; or

(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the combination or reorganization had not taken place.

(b) The fiscal body of a political subdivision shall specify by resolution the amount (if any) of the decrease that the department of local government finance shall make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a) to:

(1) eliminate double taxation by different political subdivisions for services; or

(2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

(c) The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment (if any) to be made under subsection (b).

As added by P.L.58-2011, SEC.2. Amended by P.L.255-2013, SEC.3.

IC 36-1-8-17.5

Reporting of information and data on retiree benefits and expenditures

Sec. 17.5. A political subdivision must report, in the manner specified by the department of local government finance, information and data on its retiree benefits and expenditures by March 1 of each year.

As added by P.L.205-2013, SEC.345. Amended by P.L.183-2014, SEC.24.

IC 36-1-8.5

Chapter 8.5. Restricted Addresses

IC 36-1-8.5-1

Applicability

Sec. 1. This chapter applies to all units. This chapter applies after June 30, 2014.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-2

"Covered person"

Sec. 2. As used in this chapter, "covered person" means:

- (1) a judge;
- (2) a law enforcement officer; or
- (3) a victim of domestic violence;

who submits a written request to have the person's home address restricted from disclosure under this chapter.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-3

"Judge"

Sec. 3. As used in this chapter, "judge" means an individual who is employed or was formerly employed as a judge of the supreme court, court of appeals, tax court, circuit court, superior court, municipal court, county court, federal court, or small claims court.

As added by P.L.106-2013, SEC.2. Amended by P.L.14-2014, SEC.1.

IC 36-1-8.5-4

"Law enforcement officer"

Sec. 4. As used in this chapter, "law enforcement officer" means an individual who is employed or was formerly employed as:

- (1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;
- (2) a deputy of any of the persons specified in subdivision (1);
- (3) an investigator for a prosecuting attorney or for the inspector general;
- (4) a conservation officer;
- (5) an enforcement officer of the alcohol and tobacco commission; or
- (6) an enforcement officer of the securities division of the office of the secretary of state.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-5

"Public property data base web site"

Sec. 5. As used in this chapter, "public property data base web site" means an Internet web site that:

- (1) is available to the general public over the Internet;

- (2) does not require registration, subscription, or the creation of a user name and password to search the web site; and
- (3) connects a covered person's home address to the covered person's name, so that a search of the web site for the covered person's name discloses the covered person's home address.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-6

"Victim of domestic violence"

Sec. 6. As used in this chapter, "victim of domestic violence" means a victim of domestic violence who is certified as a program participant in the address confidentiality program established by the attorney general under IC 5-26.5-2.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-7

Restricting home address access through web site

Sec. 7. (a) A unit that operates a public property data base web site, directly or through a third party, may establish a process to prevent a member of the general public from gaining access to the home address of a covered person by means of the public property data base web site.

(b) A process established by a unit under subsection (a) must meet the requirements of this chapter.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-8

Request for restricted access

Sec. 8. A covered person who wants to restrict access to the covered person's home address by means of the public property data base web site must submit a written request to the unit. As part of the process developed by the unit under section 7 of this chapter, the unit may:

- (1) determine the form of the written request;
- (2) specify any information or verification required by the unit to process the request; and
- (3) charge a covered person a reasonable fee to make a written request under this section.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-9

Responsibilities of the unit to restrict access

Sec. 9. (a) This section applies to a covered person who has submitted a written request under section 8 of this chapter.

(b) A unit shall restrict access to the home address of a covered person until the covered person submits a written request to the unit to allow public access to the person's home address on the public property data base web site. As part of the process developed by the unit under section 7 of this chapter, the unit may:

- (1) determine the form of the written request;

- (2) specify any information or verification required by the unit to process the request; and
- (3) charge a covered person a reasonable fee to make a written request under this section.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-10

Change of name

Sec. 10. (a) This section applies to a covered person who:

- (1) after submitting a written request under section 8 of this chapter, obtains a change of name under IC 34-28-2; and
- (2) notifies the unit in writing of the name change.

(b) The unit shall prevent a search by the general public of the public property data base web site from disclosing or otherwise associating the covered person's home address with the covered person's former name and new name. The unit may charge a reasonable fee to process a name change under this section.

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-11

Confidentiality of information submitted to unit

Sec. 11. A written request, notification of name change, or any other information submitted to the unit by a covered person under this chapter is confidential under IC 5-14-3-4(a).

As added by P.L.106-2013, SEC.2.

IC 36-1-8.5-12

Immunity

Sec. 12. A unit may not be held civilly liable for failure to timely restrict disclosure of an address under this chapter unless the unit's act or omission constitutes gross negligence or willful or wanton misconduct.

As added by P.L.106-2013, SEC.2.

IC 36-1-9

Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 36-1-9.1

Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 36-1-9.5

Chapter 9.5. Qualifications of Bidders for Certain Contracts

IC 36-1-9.5-1

Application of chapter

Sec. 1. This chapter applies only to contracts awarded by local boards of aviation commissioners operating under IC 8-22-2 and local airport authorities operating under IC 8-22-3. This chapter applies only to contracts for the following:

- (1) The construction or maintenance of buildings, runways, roads, and other improvements.
- (2) The purchase of materials, equipment, and supplies.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-2

"Advertisement" defined

Sec. 2. As used in this chapter, "advertisement" means the public announcement inviting bids for work to be performed or materials to be furnished.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-3

"Applicant" defined

Sec. 3. As used in this chapter, "applicant" means a contractor or the subcontractor who seeks to do business with an entity.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-4

"Application" defined

Sec. 4. As used in this chapter, "application" means the act of filing a statement with an entity to request qualification to perform work.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-5

"Award" defined

Sec. 5. As used in this chapter, "award" means the acceptance by an entity of a bid and authorization by an entity to enter into a contract with the bidder.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-6

"Bid bond" defined

Sec. 6. As used in this chapter, "bid bond" means the approved form of security furnished with a bid to guarantee that the bidder will enter into the contract if the bidder's bid is accepted.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-7

"Bidder" defined

Sec. 7. As used in this chapter, "bidder" means an individual, a partnership, a firm, a limited liability company, a corporation, or other person submitting a bid for advertised work.
As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.513.

IC 36-1-9.5-8

"Certificate of qualification" defined

Sec. 8. As used in this chapter, "certificate of qualification" means the official document that qualifies a contractor to bid on contracts of an entity that require prequalification under this chapter.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-9

"Contract" defined

Sec. 9. As used in this chapter, "contract" means the written agreement between an entity and a contractor setting forth the obligations of the parties.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-10

"Contractor" defined

Sec. 10. As used in this chapter, "contractor" means an individual, a partnership, a firm, a limited liability company, a corporation, or other person contracting with or desiring to contract with an entity for performance of prescribed work.
As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.514.

IC 36-1-9.5-11

"Entity" defined

Sec. 11. As used in this chapter, "entity" means the following:
(1) A local board of aviation commissioners operating under IC 8-22-2.
(2) A local airport authority operating under IC 8-22-3.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-12

"Payment bond" defined

Sec. 12. As used in this chapter, "payment bond" means an approved form of security, furnished and executed by the bidder and the bidder's surety, that guarantees the payment of all legal debts related to the construction of the project.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-13

"Performance bond" defined

Sec. 13. As used in this chapter, "performance bond" means an approved form of security, furnished and executed by the bidder and the bidder's surety, that guarantees the complete execution of the contract and all supplemental agreements.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-14**"Prequalification administrator" defined**

Sec. 14. As used in this chapter, "prequalification administrator" means the administrative officer of an entity who is responsible for the administration of the qualification of contractors under this chapter.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-15**"Proposal" defined**

Sec. 15. As used in this chapter, "proposal" means an offer of a bidder, on a prescribed form, to perform the work and to furnish the labor and materials at the prices quoted.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-16**"Subcontractor" defined**

Sec. 16. As used in this chapter, "subcontractor" means an individual, a partnership, a firm, a limited liability company, a corporation, or other person to whom a contractor sublets part of a contract.

As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.515.

IC 36-1-9.5-17**"Surety" defined**

Sec. 17. As used in this chapter, "surety" means a corporate body bound with and for the contractor for the following:

- (1) The full and complete performance of the contract.
- (2) The payment of all debts related to the work.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-18**"Unearned work" defined**

Sec. 18. As used in this chapter, "unearned work" means the total dollar value of work contracted for but not performed.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-19**Qualification requirement; notice; prequalification by department of transportation**

Sec. 19. (a) An entity may require a bidder on a contract described in section 1 of this chapter to be qualified under this chapter. If an entity determines that bidders on a contract must be qualified under this chapter, the entity shall provide notice of the qualification requirement in the public notice stating that bids will be accepted for the contract. The entity shall advertise ninety (90) days before the expected bid date the fact that the entity has determined that bidders on a contract must be qualified under this chapter. If an entity determines that qualification is required under this chapter for a particular contract, it is unlawful for the entity to award a contract to

a person other than a bidder previously qualified in compliance with this chapter.

(b) A bidder who is qualified by the Indiana department of transportation (IC 8-23-2-1) is qualified under this chapter. Such a bidder is not required to obtain a certificate of qualification from an entity in order to bid on a contract that is described in section 1 of this chapter.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-20

Statement of experience; form; contents

Sec. 20. A contractor desiring to offer bids for the performance of contracts for which an entity requires prequalification must file a statement of experience and financial condition using a form prescribed by the state board of accounts. The statement must include a complete report of the following of the prospective bidder:

- (1) Financial ability.
- (2) Adequacy of plant and equipment.
- (3) Organization and experience.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-21

Investigation by entity

Sec. 21. The submission of a statement under section 20 of this chapter by an applicant authorizes the entity to obtain all information that the entity considers relevant to the applicant's financial worth, assets and liabilities, organization, personnel, work experience, prosecution of work on previous contracts, condition and adequacy of equipment.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-22

New statement demand by entity; effect of noncompliance; incomplete or false information in prequalification application

Sec. 22. (a) An entity may at any time during which a certificate of qualification is in effect demand a new statement. If a contractor does not provide a new statement not later than sixty (60) days after the request is made, the entity may void the contractor's certificate of qualification.

(b) If a contractor fails to provide complete and true information in an application, the application for prequalification shall be rejected.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-23

Statements; order considered; limitation

Sec. 23. (a) Except as provided in subsection (b), an entity shall consider statements in the order in which the statements are received by the entity.

(b) A statement provided by a new applicant who desires to bid on

an advertised project must be received not later than forty-five (45) calendar days before the bid opening to receive consideration for that bid opening. A statement provided by a contractor applying for prequalification renewal must be received at least fifteen (15) calendar days before the bid opening date to receive consideration for that bid opening.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-24

Assets of contractor; sufficiency

Sec. 24. An applicant may not be given a certificate of qualification unless the review of the applicant's statement shows that the applicant possesses the net current assets determined by the entity to be sufficient to execute the contract and meet all obligations of the contract.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-25

Qualifications necessary; determination

Sec. 25. (a) An applicant must possess the qualifications required under this chapter and the entity must determine that the applicant is a competent and responsible bidder before the entity may issue the applicant a certificate of qualification.

(b) In making a determination under this section, an entity may consider only the following areas:

- (1) The contractor's organization and personnel.
- (2) The contractor's work experience and prosecution of work on previous contracts.
- (3) The condition and adequacy of the contractor's equipment.
- (4) The contractor's financial condition and the quality of the financial information furnished by the contractor.

(c) An entity may not arbitrarily or capriciously refuse to issue a certificate of qualification to an applicant.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-26

Recommendation of prequalification administrator

Sec. 26. An entity's prequalification administrator shall make a recommendation to the entity regarding the action that should be taken on an application. An entity may in the exercise of the entity's sole discretion accept or reject the recommendation of a prequalification administrator.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-27

Notice of entity's decision; effective date of certificate

Sec. 27. (a) An entity shall send an applicant written notice of the entity's decision regarding the application.

(b) A certificate of qualification becomes effective on the date determined by the entity.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-28

Contractor evaluation forms; confidentiality

Sec. 28. (a) For the purpose of determining competency and responsibility the prequalification administrator may send evaluation forms to either of the following:

- (1) Persons with whom the contractor has had business relationships.
- (2) Persons who have used the services of the contractor's employees.

(b) An entity shall keep confidential all responses received under this section. However, upon request of a contractor, an entity shall allow that contractor to inspect the responses received under this section in regard to the evaluation of that contractor.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-29

Duration of certificate's validity; expiration date

Sec. 29. A certificate of qualification may not be valid for more than sixteen (16) months. The expiration date of a certificate of qualification may not be more than eighteen (18) months after the date of the statement upon which the certificate is based. The certificate period may not be extended.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-30

Notice of nonissuance of certificate

Sec. 30. An entity shall notify an applicant if a certificate of qualification is not issued to the applicant.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-31

Change in contractor's circumstances during certificate validity period; notice to prequalification administrator

Sec. 31. If at any time during the valid period of a certificate of qualification the latest statement of a contractor on record with an entity ceases to represent fairly and substantially the financial position or the equipment of the contractor, the contractor shall do the following until the contractor's qualification is confirmed or revised:

- (1) Notify the entity prequalification administrator of the change of circumstances.
- (2) Refrain from further bidding on contracts for which the entity has required prequalification.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-32

Personal interview of contractor by entity; updated statement; audit

Sec. 32. (a) An entity may require a personal interview with any

contractor when considering qualifications.

(b) A prequalification administrator may request a new statement if the date of the statement is more than six (6) months old when submitted.

(c) A statement furnished for qualification greater than two hundred thousand dollars (\$200,000) must include a reviewed or an audited financial statement prepared and attested as correct by an independent certified public accountant registered and in good standing in any state. The accountant must make an independent verification of assets and liabilities in accordance with generally accepted auditing standards. The execution of a certificate of audit constitutes certification that an audit in accordance with generally accepted auditing standards has been performed and reported.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-33

Contractor's statement of equipment or materials; acceptance by CPA

Sec. 33. For the physical dispersal of equipment or subsequent use or sale of construction materials, an accountant may, for purposes of section 32 of this chapter, accept a signed statement of the contractor as evidence of possession of equipment or of materials inventory as of the date of the statement.

As added by P.L.85-1991, SEC.3. Amended by P.L.1-1992, SEC.181.

IC 36-1-9.5-34

Financial statement; common dated statements from prequalification applicants controlled by same owners or officers; unaudited statements more than six months old

Sec. 34. (a) A financial statement required under this chapter must do the following:

- (1) Include full and complete information for all major items of equipment, including the age, date of purchase, cost when purchased, and the date of any rebuilding of equipment.
- (2) List all major items of useful equipment.

(b) Organizations controlled by the same owners or officers who apply for prequalification under this chapter must use statements with a common date.

(c) An entity may not accept an unaudited statement that is more than six (6) months old.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-35

Grant of qualification \$200,000 or less on statement certified by company officer

Sec. 35. A qualification for not greater than two hundred thousand dollars (\$200,000) may be granted if the statement furnished is certified as correct by an officer of the company.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-36**Initial statement submitted by corporation; requirements; foreign corporations**

Sec. 36. (a) The initial statement submitted by a corporation must be accompanied by a certified copy of the following:

- (1) The minutes covering the election of current officers.
- (2) The current authority for individuals' personal signatures to contracts of the corporation, which may be:
 - (A) a part of the corporation's original articles of incorporation; or
 - (B) a subsequent official action of the stockholders or the board of directors of the corporation.

(b) If personnel or authority for individuals' personal signatures are changed in any manner, the contractor shall immediately notify the prequalification administrator and furnish the prequalification administrator with certified copies of appropriate documents.

(c) The initial statement of a foreign corporation must be accompanied by:

- (1) valid evidence that the corporation is registered and in good standing with the secretary of state to do business in Indiana; or
- (2) a letter stating that, if the corporation becomes the successful bidder on a contract, authorization will be secured by the corporation not later than fifteen (15) days after the bid opening.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-37**Classification of contractors for work; rating criteria; limitations on uncompleted work**

Sec. 37. (a) A contractor may be classified for one (1) or more types of work. A contractor will be rated in accordance with the contractor's financial ability, adequacy of plant and equipment, organization, prior experience, record of construction and any other relevant and material facts that may affect the classification.

(b) An entity shall assign a contractor a classification that will limit the type and quantity of uncompleted work the contractor may have under a contract with the entity at any time as principal or subcontractor, regardless of the location of the work or with whom the work is contracted.

(c) The entity shall assign a contractor an aggregate amount that will be the largest dollar amount of uncompleted work the contractor or subcontractor will have under contract at any time as principal or subcontractor, regardless of the location of the work and with whom the work is contracted.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-38**Maximum aggregate rating; components; net current assets**

Sec. 38. (a) A contractor's maximum aggregate rating as determined from the statement will be the sum of the following rating components:

- (1) Net current assets multiplied by ten (10).
- (2) The lesser of:
 - (A) the net book value of construction equipment assets multiplied by eight (8); or
 - (B) one-half (1/2) of the amount determined under subdivision (1).
- (3) The lesser of:
 - (A) net fixed and other assets multiplied by two (2); or
 - (B) the sum of the amounts determined under subdivisions (1) and (2) multiplied by twenty-five hundredths (0.25).

(b) An entity shall determine accepted net current assets from the statement submitted. Accepted net current assets may include only those net current assets that are readily convertible into working capital.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-39

Accepted net current assets; determination

Sec. 39. An entity shall do the following in determining accepted net current assets:

- (1) Deduct receivables excluding retainage from nongovernmental agencies more than one (1) year old.
- (2) Consider notes due not later than one (1) year from the date of the financial statement date to be current liabilities.
- (3) Deduct any notes due more than twelve (12) and less than twenty-four (24) months from the date of the financial statement from net fixed assets, and deduct the excess, if any, from the book value of the equipment and net current assets.
- (4) Not deduct notes due more than twenty-four (24) months after the date of the financial statement for prequalification purposes.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-40

Loan guarantees and commitments of applicant; effect upon net current assets

Sec. 40. If an applicant has guaranteed loans of any person or any entity, has used assets as security for the guaranteed loans, or has made other guarantees or commitments of activities of any person or any entity, an entity may reduce or adjust the applicant's net current assets if the entity determines that the guaranteed loans other guarantees or commitments are significant when considered with the applicant's statement of financial condition.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-41

Factors not considered in determining net current assets

Sec. 41. In determining net current assets, an entity may not consider the following:

- (1) Notes and accounts receivable from affiliated business firms

as assets of the applicant unless an audited financial statement showing the debtor has sufficient liquidity to discharge the debt is attached. However, an unaudited statement certified as correct by the debtor shall be accepted if an unaudited statement is submitted for qualification.

(2) Notes and accounts receivable from partners of a co-partnership or officers and stockholders of a corporation unless an audited financial statement is attached.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-42

Valuation of stocks and bonds; useful equipment

Sec. 42. An applicant must list the book value and the market value for stocks and bonds. An entity may not consider stocks and bonds as working capital unless market value, as determined or verified by the accountant, is given. Stocks and bonds shall be valued at the lesser of the book value or market. However, stocks or bonds listed on the New York Stock Exchange, American Stock Exchange, or over-the-counter on the National Association of Securities Dealers Automated Quotations list shall be valued at the market value. The value of useful equipment may be:

- (1) the book value listed; or
- (2) determined by the application of uniform depreciation schedules.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-43

Equipment rating credit; aggregate and respective classified ratings; tentative factors

Sec. 43. (a) An entity may not provide a rating credit for equipment:

- (1) that cannot satisfactorily be identified as to kind, type, and capacity; or
- (2) for which the essential information concerning the equipment's cost and age is not supplied.

(b) An entity shall provide a contractor with a tentative factor of one hundred percent (100%) in the contractor's aggregate and respective classified ratings. Each of these tentative factors may be reduced wholly or in part for the contractor's deficiencies in the following areas:

- (1) The contractor's organization and personnel.
- (2) The contractor's work experience and prosecution of work on previous contracts.
- (3) The contractor's quality of workmanship on contracts.
- (4) The condition and adequacy of the contractor's equipment.
- (5) The contractor's experience with the general public and equal employment opportunity requirements.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-44

Unlimited qualification; factors prohibiting qualification for work over \$200,000

Sec. 44. (a) An entity may grant an unlimited qualification if a contractor's maximum aggregate rating exceeds one hundred million dollars (\$100,000,000).

(b) An entity may not rate a contractor qualified for work in excess of two hundred thousand dollars (\$200,000) if the contractor:

- (1) has not performed work of any character under the firm name; and
- (2) does not have personnel of approved experience.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-45

Change in qualification; notice

Sec. 45. (a) A prequalification administrator may recommend to an entity any change in the qualification issued to the contractor based upon the receipt of additional information. An entity shall provide a contractor with notification of a change in qualification. The notification must be in writing and become effective on a date determined by the entity.

(b) A request from a contractor for a change in the contractor's qualification status must be in writing and must be received by the entity not less than fifteen (15) days before the bid opening date. A request from a contractor for a change in the contractor's qualification status will not be considered until after the expiration of ninety (90) days after the certificate date.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-46

Suspension of certificate; grounds; notice

Sec. 46. (a) A prequalification administrator may recommend to an entity that a contractor's certificate of qualification be suspended if:

- (1) the contractor's work is unsatisfactory;
- (2) the rate of progress is such that the prequalification administrator determines that the contractor will be unable to complete the contract on time; or
- (3) the contractor has failed to adequately document a current or previous contract.

(b) Notification of a suspension shall be made in writing and shall become effective on the date determined by the entity. A suspension may be lifted when the entity determines that the contractor has taken the necessary corrective action.

As added by P.L.85-1991, SEC.3. Amended by P.L.1-1992, SEC.182.

IC 36-1-9.5-47

Withdrawal of certificate; notice

Sec. 47. An entity may withdraw a certificate of qualification only if the entity has determined that the firm, limited liability company, or corporation is no longer active or in existence. The entity shall

provide notification of the withdrawal in writing. The notification of withdrawal becomes effective on the date determined by the entity. *As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.516.*

IC 36-1-9.5-48

Revocation of certificate; grounds; notice; disqualification period

Sec. 48. (a) An entity may revoke a certificate of qualification only if the entity determines that the contractor or subcontractor has done at least one (1) of the following:

- (1) Fails to timely pay or satisfactorily settle any bills due for labor and material on former or existing contracts.
- (2) Violates:
 - (A) a state or federal statute; or
 - (B) a rule or regulation of a state or federal department, board, bureau, agency, or commission.
- (3) Defaults on a contract.
- (4) Fails to enter into a contract with the entity.
- (5) Falsifies any document required by the entity, the state board of accounts, or any other agency.
- (6) Is convicted of a bidding crime in any jurisdiction.
- (7) Enters a plea of guilty or nolo contendere to a bidding crime in any state.
- (8) Does any of the following:
 - (A) Makes a public admission concerning a bidding crime in any state.
 - (B) Makes a presentation as an unindicted co-conspirator in a bidding crime in any state.
 - (C) Gives testimony that is protected by a grant of immunity in a trial for a bidding crime in any jurisdiction.
- (9) Fails to perform any part of an existing or previous contract.
- (10) Fails to submit in a timely manner information, documented explanations, or evidence required in the contract documents or proposal.
- (11) Has been debarred by a federal agency.
- (12) Failed to comply with any proposal requirements established by the entity concerning disadvantaged business enterprise goals or women business enterprise goals.

(b) An entity shall provide notification of a pending action for revocation in writing, setting forth the grounds for the proposed certificate revocation. The revocation becomes effective on the date determined by the entity.

(c) A period of disqualification under this chapter may not exceed two (2) years.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-49

Reconsideration request by aggrieved contractor

Sec. 49. A contractor dissatisfied with a decision by an entity under this chapter may make a written request for reconsideration to the prequalification administrator.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-50

Justification for reconsideration; personal interview; recommendation to entity; notice of entity decision

Sec. 50. (a) A request under section 49 of this chapter must include written justification concerning the contractor's qualification. In addition, the contractor may request a personal interview. The prequalification administrator shall consider the written request by certified or registered mail or personal service not later than fifteen (15) days after receiving the written request. The prequalification administrator may request additional information, documentation, or a personal interview with the contractor.

(b) The prequalification administrator shall make a recommendation to the entity.

(c) The entity shall notify the contractor in writing of the entity's decision. The decision becomes effective on the date determined by the entity.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-51

Appeal hearing request; notice of time and place; burden of proof

Sec. 51. (a) If a contractor is dissatisfied with the decision under section 50 of this chapter, the contractor may make a written request by certified or registered mail or personal service within fifteen (15) days after receiving the decision for an appeal hearing.

(b) A contractor shall send a request under this section to the prequalification administrator. After receiving the request, the entity shall serve written notice of the date, place, and time of the hearing and written notice of the appointment of an administrative law judge on the contractor.

(c) A hearing shall be held not later than fourteen (14) days after the receipt of the request, unless otherwise ordered by an administrative law judge.

(d) At the hearing, the contractor bears the burden of proof.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-52

Failure to follow appeals procedure; waiver

Sec. 52. If a contractor fails to follow the appeals procedures of this chapter within the specified time, the contractor accepts the decision of the entity as final and waives any right to further administrative appeal.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-53

Application of prequalification requirements; subcontractors' qualification

Sec. 53. (a) The prequalification requirements of this section do not apply to the following:

- (1) Professional services.
- (2) Hauling materials or supplies to or from a job site.
- (3) Concession contracts.

(b) If an entity determines that qualification is required under this chapter for a particular contract, it is unlawful for a successful bidder on the contract to enter into a subcontract with any other person involving the performance of any part of any work upon which the bidder may be engaged for the entity in an amount greater than one hundred thousand dollars (\$100,000) unless the subcontractor has been properly qualified under the terms of this chapter for the work sublet to the subcontractor. However, the entity may reduce this amount based on the subcontractor's performance with the entity and others.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-54

Revenue department access to names of contractors and subcontractors; tax delinquents; award of contracts; deduction of delinquent taxes from payment

Sec. 54. (a) An entity may allow the department of state revenue access to the name of each person who is either:

- (1) bidding on a contract to be awarded under this chapter; or
- (2) a contractor or a subcontractor under this chapter.

(b) If an entity is notified by the department of state revenue that a bidder is on the most recent tax warrant list, the entity may not award a contract to that bidder until:

- (1) the bidder provides to the entity a statement from the department of state revenue that the bidder's delinquent tax liability has been satisfied; or
- (2) the entity receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) The department of state revenue may notify:

- (1) the entity; and
- (2) the auditor of state;

that a contractor or subcontractor under this chapter is on the most recent tax warrant list, including the amount that the person owes in delinquent taxes. The auditor of state shall deduct from the contractor's or subcontractor's payment the amount owed in delinquent taxes. The auditor of state shall remit this amount to the department of state revenue and pay the remaining balance to the contractor or subcontractor.

As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-55

Violations; penalties

Sec. 55. (a) An applicant for qualification who knowingly makes a false statement with respect to the applicant's financial worth in an application for qualification, financial statement, or other written instrument filed by the applicant with the entity under this chapter commits a Class C infraction.

(b) A person who violates this section is disqualified from submitting bids on contracts advertised for letting by the entity for two (2) years following the date of judgment.

As added by P.L.85-1991, SEC.3. Amended by P.L.1-1992, SEC.183.

IC 36-1-10

Chapter 10. Leasing and Lease-Purchasing Structures

IC 36-1-10-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

- (1) political subdivisions and agencies of political subdivisions that determine to acquire structures, transportation projects, or systems by lease or lease-purchase;
- (2) a convention and visitor bureau established under IC 6-9-2 that determines to acquire a visitor center by lease or lease purchase; and
- (3) a convention and visitor commission established by IC 6-9-11 that determines to acquire a sports and recreation facility by lease or lease purchase.

(b) This chapter does not apply to:

- (1) the lease of library buildings under IC 36-12-10, unless the library board of the public library adopts a resolution to proceed under this chapter instead of IC 36-12-10;
- (2) the lease of school buildings under IC 20-47;
- (3) a hospital established and operated under IC 16-22 or IC 16-23;
- (4) a health and hospital corporation established and operated under IC 16-22-8; or
- (5) boards of aviation commissioners established under IC 8-22-2.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.104-1983, SEC.3; P.L.54-1983, SEC.26; P.L.182-1985, SEC.14; P.L.130-1987, SEC.4; P.L.37-1988, SEC.9; P.L.343-1989(ss), SEC.12; P.L.2-1993, SEC.196; P.L.46-1998, SEC.9; P.L.11-2001, SEC.7; P.L.1-2005, SEC.232; P.L.2-2006, SEC.186; P.L.194-2007, SEC.10.

IC 36-1-10-2

Definitions

Sec. 2. As used in this chapter:

"Leasing agent" means the board or officer of a political subdivision or agency with the power to lease structures.

"Parking facility" refers to a parking facility as defined in IC 36-9-1.

"Structure" means:

- (1) a building used in connection with the operation of a political subdivision; or
- (2) a parking facility.

The term includes the site, the equipment, and appurtenances to the building or parking facility.

"System" means:

- (1) a computer (as defined in IC 36-8-15-4);
 - (2) a communications system (as defined in IC 36-8-15-3(1));
- or

(3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

"Transportation project" means a road or highway project jointly undertaken by the Indiana department of transportation and any county through which a toll road project under IC 8-15-2 passes. A transportation project must be located within an area described in IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.10; P.L.343-1989(ss), SEC.13; P.L.18-1990, SEC.289.

IC 36-1-10-3

Persons entitled to lease property to political subdivision or agency

Sec. 3. Any of the following persons may lease property to a political subdivision or agency under this chapter:

- (1) A profit or not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.
- (2) A partnership, association, limited liability company, or firm.
- (3) An individual.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.8-1993, SEC.517.

IC 36-1-10-4

Repealed

(Repealed by P.L.1-1990, SEC.356.)

IC 36-1-10-4.1

Leasing agents; compliance with chapter; procedure in lease without option to purchase

Sec. 4.1. (a) A leasing agent who wants to lease a structure or transportation project must comply with this chapter. A leasing agent who wants to lease a system must comply with this chapter or IC 5-22.

(b) A leasing agent who enters into a lease under this section without an option to purchase must follow the procedure prescribed by section 5 of this chapter.

As added by P.L.1-1990, SEC.357. Amended by P.L.49-1997, SEC.68.

IC 36-1-10-5

Leases without option to purchase; procedure

Sec. 5. Notwithstanding sections 6, 12, 16, and 17 of this chapter, the following procedure shall be followed whenever a lease does not contain an option to purchase:

- (1) The term of the lease may not be longer than ten (10) years; however, a lease may be for a longer term if the lease is approved by the department of local government finance.
- (2) The lease must provide that the lease is subject to annual appropriation by the appropriate fiscal body.
- (3) The leasing agent must have a copy of the lease filed and

kept in a place available for public inspection.
A leasing agent may lease part of a structure.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.131-1984, SEC.4; P.L.330-1985, SEC.1; P.L.90-2002, SEC.462.

IC 36-1-10-6

Limitation on term of lease

Sec. 6. A leasing agent may not enter into a lease for a period of more than fifty (50) years.
As added by Acts 1981, P.L.57, SEC.36.

IC 36-1-10-7

Lease of structures, systems, or transportation projects; petition; need

Sec. 7. A leasing agent may not lease a structure, transportation project, or system unless:

- (1) the leasing agent receives a petition signed by fifty (50) or more taxpayers of the political subdivision or agency; and
- (2) the fiscal body of the political subdivision determines, after investigation, that the structure, transportation project, or system is needed.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.330-1985, SEC.2; P.L.37-1988, SEC.12; P.L.343-1989(ss), SEC.15.

IC 36-1-10-8

Joint leasing

Sec. 8. (a) If two (2) or more leasing agents propose to enter into a lease jointly, joint meetings of the leasing agents may be held. However, joint leasing must be approved by each leasing agent's fiscal body.

(b) A lease executed by two (2) or more leasing agents as joint lessees must set out the amount of the total rental to be paid by each. A lessee has no right of occupancy or use of the transportation project or system until the total rental is paid as stipulated by the contract.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.13; P.L.343-1989(ss), SEC.16.

IC 36-1-10-9

Leases; terms and conditions; options to renew or purchase; exercise of option to purchase

Sec. 9. (a) The lease may provide that the leasing agent has an option to renew the lease for a further term or to purchase the property. The terms and conditions of the purchase must be specified in the lease.

(b) Whenever the leasing agent exercises an option to purchase the property, then the political subdivision or agency may issue and sell bonds for the purpose of procuring money to pay the purchase price. If the leasing agent does not exercise an option to purchase the property, then upon the expiration of the lease and upon full performance by the leasing agent, the property becomes the absolute

property of the political subdivision or agency. The lessor shall convey title to the political subdivision or agency.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.18.

IC 36-1-10-10

Plans, specifications, and estimates for structures, systems, and transportation projects

Sec. 10. (a) A lessor proposing to build, acquire, improve, remodel, or expand a structure for lease to a political subdivision or agency shall submit plans, specifications, and estimates to the leasing agent before executing a lease. The leasing agent shall submit the plans and specifications to the division of fire and building safety or the state building commissioner, and other agencies designated by law.

(b) A lessor proposing to acquire a transportation project or system may enter into a lease without submitting plans, designs, or specifications to any political subdivision or agency. However, before the execution of the lease, the lessor must submit to the lessee or lessees an estimate of the cost and a description of the transportation project or system.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.8-1984, SEC.122; P.L.37-1988, SEC.14; P.L.188-1988, SEC.1; P.L.343-1989(ss), SEC.17; P.L.1-2006, SEC.552; P.L.218-2014, SEC.19.

IC 36-1-10-11

Property held in fee simple; sale procedure

Sec. 11. (a) The lessor must hold in fee simple land on which a structure is to be erected, acquired, improved, remodeled, or expanded. The lessor must hold in fee simple a structure that is to be acquired, improved, remodeled, or expanded.

(b) The leasing agent may sell land or a structure owned by the political subdivision or agency to the lessor under the following procedure if the political subdivision wants to lease a structure proposed to be built, acquired, improved, remodeled, or expanded on that land:

(1) The leasing agent shall appoint two (2) appraisers to appraise the fair market value of the land or structure.

(2) The appraisers must be professionally engaged in making appraisals or licensed under IC 25-34.1.

(3) The appraisers shall return their appraisal to the leasing agent within two (2) weeks after the date of their appointment.

(4) The leasing agent shall sell the land or structure for not less than the appraised value. However, if the political subdivision or agency acquired the land or structure during the three (3) years preceding the date of the appointment of the appraisers, the land or structure may not be sold for an amount less than the amount paid by the political subdivision or agency for the land or structure.

(5) The leasing agent shall be paid in cash upon the agent's delivery of the deed.

(6) The leasing agent is not required to comply with any other law relating to the sale of land or structures by a political subdivision.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.188-1988, SEC.2.

IC 36-1-10-12

Lease in anticipation of acquisition or construction of structure, system, or transportation project

Sec. 12. (a) The leasing agent may, in anticipation of the acquisition of a site on which a structure is to be constructed, acquired, improved, remodeled, or expanded, enter into a contract to lease a structure from the lessor before the actual acquisition of the site and the construction, acquisition, improvement, remodeling, or expansion of the structure. The lease may not provide for payment of any rental by the leasing agent if a new structure is to be constructed until it is complete and ready for occupancy. However, the lease may provide for payment of lease rental for any part of the structure to be used by the political subdivision or its agency for any period during improvement, remodeling, or expansion of the structure.

(b) A leasing agent may, in anticipation of the acquisition of a system, enter into a lease with the lessor before the completion of the acquisition. A leasing agent may, in anticipation of the acquisition or construction of a transportation project, enter into a lease with the lessor before the completion of construction or acquisition. Such a lease must require the payment of lease rental by the lessee or lessees to begin when acquisition of the system, or a discrete, functional part of the system, or acquisition or construction of the transportation project, has been completed and is ready for use, but not before that time. An opinion or report of an independent expert that the system, or a discrete, functional part of the system, or a transportation project is complete and ready for use is conclusive and binding on all parties and on all taxpayers of an eligible entity.

(c) The lease may provide that the leasing agent shall pay all taxes and assessments, maintain insurance for the benefit of the lessor, and assume all responsibilities for repair and alterations during the term of the lease.

(d) The leasing agent may require the lessor, as a condition of entering into a lease, to furnish a bond guaranteeing the lease in an amount specified by the leasing agent.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.19; P.L.37-1988, SEC.15; P.L.188-1988, SEC.3; P.L.343-1989(ss), SEC.18.

IC 36-1-10-13

Hearing; procedure; execution of lease

Sec. 13. (a) After the leasing agent and the lessor have agreed upon the terms and conditions of the lease but before the execution

of the lease, the leasing agent shall publish notice, in accordance with IC 5-3-1, of a public hearing to be held before the leasing agent. The cost of the publication of the notice shall be paid by the lessor. Notice of the hearing must be given at least ten (10) days before the hearing is held.

(b) The notice must state the date, place, and hour of the hearing and provide a summary of the principal terms of the lease. Additionally, the notice must contain the name of the proposed lessor, the location and character of the structure, transportation project, or system to be leased, the rental to be paid, and the number of years the lease is to be in effect.

(c) The proposed lease, drawings, plans, specifications, and estimates for the structure, or description and cost estimate of the transportation project or system, are open to public inspection during the ten (10) day period and at the hearing.

(d) All persons are entitled to be heard at the hearing as to whether the execution of the lease is necessary and whether the rental is fair and reasonable for the proposed structure or system. After the hearing, which may be adjourned from time to time, the leasing agent may modify, confirm, or rescind the proposed lease, but the rental as set out in the published notice may not be increased. The leasing agent may rely on the testimony of independent experts as to the fairness and reasonableness of the lease.

(e) If the execution of the lease as originally agreed upon or as modified is authorized by the leasing agent, the leasing agent shall give notice of the execution of the lease by publication in accordance with IC 5-3-1.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.20; P.L.37-1988, SEC.16; P.L.343-1989(ss), SEC.19; P.L.25-1995, SEC.82.

IC 36-1-10-14

Disagreement with execution of lease; petition; hearing; decision

Sec. 14. (a) If lease rentals are payable, in whole or in part, from property taxes, ten (10) or more taxpayers in the political subdivision who disagree with the execution of a lease under this chapter may file a petition in the office of the county auditor of the county in which the leasing agent is located, within thirty (30) days after publication of notice of the execution of the lease. The petition must state the taxpayer's objections and the reasons why the lease is unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) nor more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the political subdivision where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the leasing agent and to the first ten (10) taxpayer petitioners listed on the petition by a letter signed by the commissioner or deputy commissioner of the department. The letter shall be sent to the first ten (10) taxpayer petitioners at their usual place of residence at least five (5) days before the date of the hearing. The decision by the department of local government finance on the objections presented in the petition is final.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.17; P.L.90-2002, SEC.463.

IC 36-1-10-15

Actions to contest validity of lease or to enjoin performance under lease

Sec. 15. An action to contest the validity of a lease under this chapter, or to enjoin performance under the lease, must be brought within thirty (30) days after publication of notice of the execution of the lease by the leasing agent or, if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.90-2002, SEC.464.

IC 36-1-10-16

Conveyance of structure to lessor and lease back; purchase price; option to purchase

Sec. 16. (a) A political subdivision or agency owning a structure with respect to which its revenue bonds are outstanding may, to refinance those bonds, convey the structure to the lessor in fee simple and lease it from the lessor in accordance with this chapter, subject to the approval of the department of local government finance.

(b) The price of a purchase under this section must be at least the sum of:

- (1) the principal amount of the outstanding revenue bonds;
- (2) interest on those bonds to the maturity date of bonds not subject to redemption before maturity and to the first redemption date of bonds subject to redemption before maturity; and
- (3) the redemption premiums on all bonds subject to redemption before maturity.

An amount not less than this sum shall be deposited in trust for the payment of the outstanding revenue bonds in a manner consistent with the ordinance or trust agreement under which the bonds were issued. The money deposited in the trust, and investment income from it, not required for the payment of the bonds, shall be applied to the payment of the obligations issued by the lessor for the acquisition of the structure, and to a corresponding reduction of rentals for the leasing agent.

(c) Each lease entered into under this section must include an option permitting the political subdivision or agency to purchase the

structure at a price not exceeding the amount required to retire all outstanding obligations issued by the lessor to acquire the property covered by the lease. The lease and sale of a parking facility under this section does not preclude the lease of air rights.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.90-2002, SEC.465.

IC 36-1-10-17

Annual appropriation and tax levy

Sec. 17. (a) A political subdivision or agency that executes a lease under this chapter shall, subject to subsection (d), make an annual appropriation and tax levy at a rate to provide sufficient money to pay the rental payable from property taxes stipulated in the lease.

(b) The appropriation and levy are subject to review by other bodies that have the authority to ascertain that the levy is sufficient to raise the amount required to pay the rental payable from property taxes under the lease.

(c) The appropriation and levy may be reduced in any year to the extent other money or any reimbursement under IC 36-7-14-39 are pledged or available for the payment of the lease rental.

(d) A political subdivision or agency that executes a lease for a transportation project may only levy a tax under this section for an amount necessary to restore debt service reserve funds and may not levy a tax for lease rental payments.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.18; P.L.343-1989(ss), SEC.20.

IC 36-1-10-18

Tax exemption of leased structures, systems, and transportation projects; taxation of rental paid lessor

Sec. 18. Structures, transportation projects, and systems leased by a lessor contracting with the political subdivision or agency under this chapter are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of a lease is subject to taxation.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.19; P.L.343-1989(ss), SEC.21.

IC 36-1-10-19

Assignment or conveyance of lease; conveyance of structure, system, or transportation project

Sec. 19. A lessor may assign or convey a lease entered into under this chapter to any other person as set forth in the lease. A lessor may convey the structures, transportation projects, or system to any person. However, an assignment or conveyance under this section does not affect the terms and conditions of the lease.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.20; P.L.343-1989(ss), SEC.22.

IC 36-1-10-20

Repealed

(Repealed by P.L.25-1995, SEC.94.)

IC 36-1-10-20.1

Repealed

(Repealed by P.L.25-1995, SEC.94.)

IC 36-1-10-21

Not-for-profit corporations; issuance and sale of bonds and other securities

Sec. 21. (a) A not-for-profit corporation qualifying as a lessor corporation under this chapter may issue and sell bonds and other securities. Mortgage bonds issued by a lessor corporation that are a first lien on the leased property shall be considered legal and proper investments for state banks and trust companies, insurance companies, and fiduciaries.

(b) Bonds issued by a lessor corporation may be sold at a private sale, a negotiated sale, or a public sale. If bonds are sold at public sale, they shall be sold pursuant to IC 5-1-11, but the notice of sale shall be published in the manner required for bonds of the county in which the leased property is or will be located.

(c) Approval of the securities commissioner is not required in connection with the issuance and sale of the bonds.

As added by P.L.2-1989, SEC.23.

IC 36-1-10.5

Chapter 10.5. Purchase of Land or Structures

IC 36-1-10.5-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

- (1) political subdivisions; and
- (2) their agencies.

(b) This chapter does not apply to the purchase of:

- (1) real property having a total price (including land and structures, if any) of twenty-five thousand dollars (\$25,000) or less;
- (2) airport land or structures under IC 8-22;
- (3) library land or structures under IC 36-12;
- (4) school land or structures under IC 20-47;
- (5) hospital land or structures by a hospital or health and hospital corporation established and operated under IC 16-22 or IC 16-23;
- (6) land or structures acquired for a road or street right-of-way for a federal-aid project funded in any part under 23 U.S.C. 101 et seq.;
- (7) land or structures by redevelopment commissions under IC 36-7-14 or IC 36-7-15.1, or redevelopment authorities under IC 36-7-14.5; or
- (8) land by a municipally owned water utility, if:
 - (A) the municipally owned water utility has performed or contracted with another party to perform sampling and drilling tests of the land; and
 - (B) the sampling and drilling tests indicate the land has water resources.

As added by P.L.336-1987, SEC.1. Amended by P.L.188-1988, SEC.4; P.L.114-1989, SEC.2; P.L.2-1993, SEC.197; P.L.221-1997, SEC.1; P.L.1-2005, SEC.233; P.L.2-2006, SEC.187; P.L.194-2007, SEC.11.

IC 36-1-10.5-2

"Parking facility" defined

Sec. 2. As used in this chapter, "parking facility" refers to a parking facility as defined in IC 36-9-1.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-3

"Purchasing agent" defined

Sec. 3. As used in this chapter, "purchasing agent" means the board or officer of a political subdivision or agency with the power to purchase land or structures.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-4

"Structure" defined

Sec. 4. As used in this chapter, "structure" means:

- (1) a building used in connection with the operation of a political subdivision; or
- (2) a parking facility.

The term includes the site, equipment, and appurtenances to the building or parking facility.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-5**Purchase of land or structure; required procedures**

Sec. 5. A purchasing agent shall purchase land or a structure only after compliance with the following procedures:

- (1) The fiscal body of the political subdivision shall pass a resolution to the effect that it is interested in making a purchase of specified land or a structure.
- (2) The purchasing agent shall appoint two (2) appraisers to appraise the fair market value of the land or structure. The appraisers must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1.
- (3) The appraisers shall return their separate appraisals to the purchasing agent within thirty (30) days after the date of their appointment. The purchasing agent shall keep the appraisals on file in the purchasing agent's office for five (5) years after they are given to the purchasing agent.
- (4) The purchasing agent shall give a copy of both appraisals to the fiscal body.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-6**Limitation on purchase price**

Sec. 6. A purchasing agent may not purchase any land or structure for a price greater than the average of the two (2) appraisals received under section 5 of this chapter.

As added by P.L.336-1987, SEC.1.

IC 36-1-11

Chapter 11. Disposal of Real or Personal Property

IC 36-1-11-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the disposal of property by:

- (1) political subdivisions; and
- (2) agencies of political subdivisions.

(b) This chapter does not apply to the following:

- (1) The disposal of property under an urban homesteading program under IC 36-7-17 or IC 36-7-17.1.
- (2) The lease of school buildings under IC 20-47.
- (3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.
- (4) The disposal of property by a redevelopment commission established under IC 36-7.
- (5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.
- (6) The disposal of a municipally owned utility under IC 8-1.5.
- (7) The sale or lease of property by a unit to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.
- (8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (9) The sale or lease of property acquired under IC 36-7-13 for industrial development.
- (10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.
- (11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.
- (12) The disposition of property by a soil and water conservation district under IC 14-32.
- (13) The sale, lease, or disposal of property by the health and hospital corporation established and operated under IC 16-22-8.
- (14) The disposal of personal property by a library board under IC 36-12-3-5(c).
- (15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.
- (16) The disposal of an interest in property by a housing authority under IC 36-7-18.
- (17) The disposal of property under IC 36-9-37-26.
- (18) The disposal of property used for park purposes under IC 36-10-7-8.
- (19) The disposal of curricular materials that will no longer be

used by school corporations under IC 20-26-12.

(20) The disposal of residential structures or improvements by a municipal corporation without consideration to:

(A) a governmental entity; or

(B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.

(21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:

(A) listed on the National Register of Historic Places; or

(B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.

(22) The disposal of real property without consideration to:

(A) a governmental agency; or

(B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;

when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.

(23) The disposal of property to a person under an agreement between the person and a political subdivision or an agency of a political subdivision under IC 5-23.

(24) The disposal of residential real property pursuant to a federal aviation regulation (14 CFR 150) Airport Noise Compatibility Planning Program as approved by the Federal Aviation Administration.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.1; P.L.16-1983, SEC.21; P.L.182-1985, SEC.15; P.L.214-1986, SEC.1; P.L.2-1987, SEC.49; P.L.214-1989, SEC.5; P.L.336-1989(ss), SEC.44; P.L.162-1991, SEC.4; P.L.2-1993, SEC.198; P.L.98-1993, SEC.11; P.L.1-1994, SEC.172; P.L.165-1994, SEC.1; P.L.1-1995, SEC.79; P.L.310-1995, SEC.1; P.L.82-1995, SEC.7; P.L.49-1997, SEC.69; P.L.76-1998, SEC.1; P.L.1-2005, SEC.234; P.L.184-2005, SEC.37; P.L.2-2006, SEC.188; P.L.154-2012, SEC.4; P.L.118-2013, SEC.11; P.L.286-2013, SEC.128.

IC 36-1-11-2

Definitions

Sec. 2. The following definitions apply throughout this chapter:

(1) "Disposal" means sale, exchange, transfer, or lease of property.

(2) "Disposing agent" means the board or officer of a political subdivision or agency having the power to award contracts for which public notice is required, with respect to property of the

political subdivision or agency.

(3) "Key number" has the meaning set forth in IC 6-1.1-1-8.5.

(4) "Operating agreement" has the meaning set forth in IC 5-23-2-7.

(5) "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.

(6) "Property" means all fixtures and real property to be included in a disposal.

(7) "Tract" has the meaning set forth in IC 6-1.1-1-22.5.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.23; P.L.82-1995, SEC.8; P.L.49-1997, SEC.70.

IC 36-1-11-3

Approval

Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, 5.9, 8, or 18 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

- (1) the executive of the political subdivision or agency; or
- (2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve:

- (1) every sale of real property having an appraised value of fifty thousand dollars (\$50,000) or more;
- (2) every lease of real property for which the total annual rental payments will be twenty-five thousand dollars (\$25,000) or more; and
- (3) every transfer of real property under section 14 or 15 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.2; P.L.331-1985, SEC.1; P.L.330-1985, SEC.3; P.L.35-1990, SEC.43; P.L.82-1995, SEC.9; P.L.124-1998, SEC.11; P.L.27-2008, SEC.1; P.L.257-2013, SEC.40.

IC 36-1-11-3.1

Sale of residential real property; disapproval

Sec. 3.1. (a) In addition to any other reason for disapproving a disposal of property under section 3 of this chapter, the executive of a consolidated city may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that:

- (1) the bidder will reside on that property for at least one (1) year after the bidder obtains possession of it; and
- (2) the bidder is eligible to purchase the property under section

16 of this chapter.

(b) When the executive exercises disapproval under this section, the property may be sold to the highest bidder who also presents an affidavit declaring that:

- (1) the bidder will reside on that property for a one (1) year period after the bidder obtains possession; and
- (2) the bidder is eligible to purchase the property under section 16 of this chapter.

As added by Acts 1981, P.L.306, SEC.1. Amended by P.L.60-1988, SEC.24.

IC 36-1-11-3.2

Approval of sale, lease, or transfer of real property in certain cities

Sec. 3.2. (a) This section applies to a city having a population of:

- (1) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);
- (2) more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900); or
- (3) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(b) Notwithstanding section 3(c) of this chapter, the fiscal body of a city must approve:

- (1) every sale of real property having an appraised value of ten thousand dollars (\$10,000) or more;
- (2) every lease of real property for which the total annual rental payments will be five thousand dollars (\$5,000) or more; and
- (3) every transfer of real property under section 14 or 15 of this chapter.

As added by P.L.124-1998, SEC.12. Amended by P.L.170-2002, SEC.138; P.L.119-2012, SEC.177.

IC 36-1-11-4

Sale or transfer of real property; procedure

Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, 5.7, 5.9, 8, 14, 15, or 18 of this chapter.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

- (1) professionally engaged in making appraisals;
- (2) licensed under IC 25-34.1; or
- (3) employees of the political subdivision familiar with the value of the property.

(c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the

disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

- (1) Bids will be received beginning on a specific date.
- (2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.
- (3) The property may not be sold to a person who is ineligible under section 16 of this chapter.
- (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
 - (A) beneficiary of the trust; and
 - (B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the average of the two (2) appraisals of the tracts only after an additional notice stating the amount of the bid to be accepted is published in accordance with IC 5-3-1. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. A disposing agent may hire a broker to sell real property directly rather than using the bid process under subsections (c) through (f) if:

- (1) the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and
- (2) the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received.

The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

(h) The following apply if a broker is hired under subsection (g):

(1) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(2) If the property is sold to a trust (as defined in IC 30-4-1-1(a)), the following information must be placed in the public record relating to the sale:

(A) Each beneficiary of the trust.

(B) Each settlor empowered to revoke or modify the trust.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.3; P.L.32-1983, SEC.10; P.L.331-1985, SEC.2; P.L.330-1985, SEC.4; P.L.60-1988, SEC.25; P.L.336-1989(ss), SEC.45; P.L.165-1994, SEC.2; P.L.188-2007, SEC.2; P.L.27-2008, SEC.2; P.L.188-2011, SEC.1; P.L.257-2013, SEC.41.

IC 36-1-11-4.1

Sale or transfer of real property, including provision for leaseback; notice; bids

Sec. 4.1. (a) This section applies to a disposing agent who wants to sell or transfer real property, and as a condition of sale, includes a provision for a leaseback or leaseback with option to repurchase.

(b) The disposing agent shall publish notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale. The notice must state the following:

(1) Bids will be received beginning on a specific date.

(2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

(3) The property may not be sold or transferred to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(c) A bid must be open to public inspection.

(d) After the period for receiving bids has expired, a disposing agent may sell the property to the highest and best eligible bidder. The highest and best eligible bidder must have complied with any requirement under subsection (b)(4).

(e) IC 36-1-10 does not apply to this section.

As added by Acts 1982, P.L.208, SEC.4. Amended by P.L.60-1988, SEC.26; P.L.336-1989(ss), SEC.46.

IC 36-1-11-4.2

Sale or transfer of real property not acquired through eminent domain to promote an economic development project or facilitate compatible land use planning

Sec. 4.2. (a) This section applies to a disposing agent who wants to sell or transfer real property not acquired through eminent domain procedures for any of the following purposes:

(1) To promote an economic development project.

- (2) To facilitate compatible land use planning.
- (b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:
 - (1) professionally engaged in making appraisals;
 - (2) licensed under IC 25-34.1; or
 - (3) employees of the political subdivision familiar with the value of the property.
- (c) Subject to subsection (d), the disposing agent may:
 - (1) negotiate a sale or transfer; and
 - (2) dispose of the real property;at a value that is not less than the average of the two (2) appraisals under subsection (b).

(d) The disposing agent may dispose of the real property for a value that is not less than the average of the two (2) appraisals under subsection (b) only after publishing a notice in accordance with IC 5-3-1 stating the amount of the offer to be accepted. The disposing agent may reject all offers. If the disposing agent rejects all offers, the disposing agent must make a written determination to reject all offers explaining why all offers were rejected.

As added by P.L.165-1994, SEC.3. Amended by P.L.188-2011, SEC.2.

IC 36-1-11-4.3

Public easement or right-of-way

Sec. 4.3. Notwithstanding any provision of this chapter, a sale or transfer under this chapter of property constituting a public easement or right of way does not deprive a public utility of the use of all or part of the public easement or right of way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

As added by P.L.188-2011, SEC.3.

IC 36-1-11-5

Sale of property having certain value or previously part of right-of-way; rights of abutting landowners; procedures

Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

- (1) touches, borders on, or is contiguous to the property that is the subject of sale; and
- (2) does not constitute a:
 - (A) public easement; or
 - (B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;
- (3) recording fees; and
- (4) advertising costs.

(c) The disposing agent may proceed under this section if either of the following applies:

(1) The assessed value of a tract of real property to be sold is less than fifteen thousand dollars (\$15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired.

(2) If the property has not been assessed and the property was previously part of a public right-of-way.

(d) The disposing agent may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.47-1983, SEC.5; P.L.332-1985, SEC.1; P.L.333-1985, SEC.1; P.L.60-1988, SEC.27; P.L.336-1989(ss), SEC.47; P.L.165-1994, SEC.4; P.L.170-2003, SEC.17; P.L.188-2011, SEC.4.

IC 36-1-11-5.5

School corporations; sale or transfer of real property or tangible or intangible personal property or licenses

Sec. 5.5. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a school corporation may sell or transfer:

- (1) real property; or
- (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses that are used in, or related to, the operation of a radio station by a school corporation;

for no compensation or a nominal fee to a not-for-profit corporation created for educational or recreational purposes unless the corporation is subject to section 16 of this chapter.

As added by Acts 1982, P.L.208, SEC.5. Amended by P.L.215-1986, SEC.1; P.L.60-1988, SEC.28; P.L.342-1989(ss), SEC.36; P.L.165-1994, SEC.5; P.L.49-1997, SEC.71.

IC 36-1-11-5.6

Sale or transfer of property to a nonprofit corporation

Sec. 5.6. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a county having a population of more than seventy thousand (70,000) but less than seventy thousand fifty (70,050) may sell or transfer:

- (1) real property; or
- (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property;

for no compensation or a nominal fee to a nonprofit corporation

created for agricultural, educational, or recreational purposes.
As added by P.L.10-2001, SEC.1. Amended by P.L.170-2002, SEC.139; P.L.119-2012, SEC.178.

IC 36-1-11-5.7

Sale or transfer of real property or tangible or intangible personal property or licenses to volunteer fire department, fire protection district, or fire protection territory

Sec. 5.7. (a) As used in this section, "fire department" refers to any of the following:

- (1) A volunteer fire department (as defined in IC 36-8-12-2).
- (2) The board of fire trustees of a fire protection district established under IC 36-8-11.
- (3) The provider unit of a fire protection territory established under IC 36-8-19.

(b) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

- (1) real property; or
- (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a fire department for construction of a fire station or other purposes related to firefighting.

As added by P.L.188-2007, SEC.3. Amended by P.L.128-2008, SEC.6.

IC 36-1-11-5.9

Sale or transfer of real property acquired by tax default; rights of abutting landowners; procedures

Sec. 5.9. (a) As used in this section, "abutting landowner" has the meaning set forth in section 5(a) of this chapter.

(b) As used in this section, "real property acquired by tax default" means the following:

- (1) Real property for which a county holds a tax deed issued under IC 6-1.1-25.
- (2) Real property acquired by a political subdivision from a county under section 8 of this chapter if at the time of transfer the county held a tax deed issued under IC 6-1.1-25 for the real property.

(c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner.

(d) A disposing agent who desires to transfer real property acquired by tax default to an abutting landowner shall send notice by certified mail to all abutting landowners. The notice must identify the tracts intended for sale by legal description and, if possible, by key

number and street address. The notice must also include a statement that:

- (1) the disposing agent is authorized to transfer the property for no consideration or for nominal consideration;
- (2) the property may not be sold to a person who is ineligible under section 16 of this chapter; and
- (3) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
 - (A) beneficiary of the trust; and
 - (B) settlor empowered to revoke or modify the trust.

(e) Not earlier than fourteen (14) days after a disposing agent sends the notice described in subsection (d) to the abutting landowners of a tract, the disposing agent shall conduct the negotiation and sale of the tract under this section as follows:

- (1) If only one (1) eligible abutting landowner makes an offer to purchase the tract, then subject to section 16 of this chapter and without appraisal or further notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.
- (2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (d)(3).

As added by P.L.27-2008, SEC.3.

IC 36-1-11-6

Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 36-1-11-7

Exchange of property with persons other than governmental entity; procedure

Sec. 7. (a) A disposing agent who exchanges property must proceed under this section, except as permitted by section 8 or 18 of this chapter.

(b) An exchange may be made with a person who is:

- (1) not a governmental entity; and
- (2) eligible under section 16 of this chapter;

only after advertisement following as nearly as practical the procedure prescribed by section 4 of this chapter, with the property the disposing agent conveys to be partial or full payment for the property the disposing agent receives.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.29; P.L.257-2013, SEC.42.

IC 36-1-11-8

Exchange of property with governmental entity

Sec. 8. A transfer or exchange of property may be made with a governmental entity upon terms and conditions agreed upon by the entities as evidenced by adoption of a substantially identical resolution by each entity. Such a transfer may be made for any amount of real property, cash, or other personal property, as agreed upon by the entities.

As added by Acts 1981, P.L.57, SEC.37.

IC 36-1-11-9

Trade or exchange as part of purchase price of new property

Sec. 9. Whenever a disposing agent purchases new property with a condition that property of a similar nature is to be traded in or exchanged as part of the purchase and in reduction of the purchase price, the exchange or trade-in may be made without compliance with section 7 of this chapter but must comply with section 16 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.30.

IC 36-1-11-10

Lease of property; procedure

Sec. 10. (a) A disposing agent may lease property rather than sell, transfer, or exchange it under this chapter only if the disposing agent determines that a lease rather than a sale, transfer, or exchange would be in the best interest of the disposing agent's political subdivision or agency and the public. Except as provided in section 12 of this chapter, the disposing agent must proceed under this section in leasing property.

(b) The disposing agent shall first have the property appraised in the manner prescribed in section 4(b) of this chapter, except that the appraisers shall determine the fair market rental value of the property.

(c) The disposing agent shall receive bids in the manner prescribed in section 4 of this chapter and lease the property to the highest and best bidder. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(d) The disposing agent shall determine the terms and conditions of any lease under this section, which may include options to renew and options to purchase. The property may not be leased to a person who is ineligible under section 16 of this chapter.

(e) The terms of a lease with option to purchase may provide that all or part of the rental payments under the lease apply to the purchase price. The purchase price must be equal to at least the minimum sale price determined under section 4(f) of this chapter.

(f) Property owned by a political subdivision or agency may be leased for a term longer than three (3) years if the lease is approved by the fiscal body of the political subdivision.

(g) The disposing agent may lease the real property under this section for a value that is less than ninety percent (90%) of the appraised fair market rental value as determined by the average of the

two (2) appraisals under section 4(b) of this chapter only after publishing an additional notice in accordance with IC 5-3-1, stating the amount of the bid to be accepted. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.339-1983, SEC.1; P.L.60-1988, SEC.31; P.L.188-2011, SEC.5.

IC 36-1-11-11

Execution of deed or other instrument

Sec. 11. Whenever:

- (1) there is a dispute concerning the interest in any property of a political subdivision, and the executive considers the dispute not frivolous; or
- (2) it would facilitate the establishment of title to any property; a deed or other instrument may be executed on behalf of the political subdivision to a person who is eligible to receive the deed or instrument under section 16 of this chapter for any consideration that the disposing agent considers fair and in the public interest.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.32.

IC 36-1-11-12

Lease of property; alternative procedure

Sec. 12. The following procedure may be used instead of that in section 10 of this chapter if the disposing agent makes a written determination (which must include the disposing agent's reasons) that the use of section 10 of this chapter is not feasible, and authorization to use this procedure is granted by the executive of the political subdivision or agency:

- (1) Proposals to develop specifications shall be solicited through a request for proposals, which must include all of the following:
 - (A) The factors or criteria that will be used in evaluating the proposals, including a statement that:
 - (i) the property may not be leased to a person who is ineligible under section 16 of this chapter; and
 - (ii) a proposal submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.
 - (B) A statement concerning the relative importance of price and the other evaluation factors.
 - (C) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.
 - (D) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
- (2) Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.

(3) As provided in the request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

(4) Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

(5) After the procedures outlined in this section have been completed, the disposing agent shall make a determination as to the most appropriate response to the request for proposals and shall dispose of the subject property in accordance with that response.

(6) Access to the proposals under this chapter shall be determined in accordance with the provisions of IC 5-23-7.

(7) The person submitting the successful proposal is not responsible for the requirements set forth in IC 5-22 with regard to the purchase of supplies if the purchase of supplies was included within the proposal or the supplies are not paid for with public funds.

As added by P.L.339-1983, SEC.2. Amended by P.L.60-1988, SEC.33; P.L.336-1989(ss), SEC.48; P.L.82-1995, SEC.10; P.L.49-1997, SEC.72.

IC 36-1-11-13

Restrictions on lease of county-owned property

Sec. 13. Notwithstanding any other law, a disposing agent for a county may not lease county-owned property at a rate that deviates more than five percent (5%) from the average square footage rate charged for similar property in that county.

As added by P.L.38-1984, SEC.3.

IC 36-1-11-14

Gift of tract; reconveyance

Sec. 14. If a tract was originally transferred to a political subdivision as a gift and public funds have not been expended to improve the property since the original transfer, the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

(1) the property is surplus; and

(2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

As added by P.L.331-1985, SEC.3. Amended by P.L.60-1988, SEC.34.

IC 36-1-11-15

Tract transferred as gift by not-for-profit corporation or organization; reconveyance

Sec. 15. If a tract was originally transferred to a political subdivision as a gift by a not-for-profit corporation or organization,

the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

- (1) the property is surplus; and
- (2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

As added by P.L.330-1985, SEC.5. Amended by P.L.60-1988, SEC.35.

IC 36-1-11-16

Purchase, receipt, or lease of property by ineligible persons; eligible persons; effect of ineligibility

Sec. 16. (a) This section applies to the following:

- (1) A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under IC 6-1.1-24-1.
- (2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the county retains the interest in the tract it possessed before the sale, transfer, or lease of the tract.

As added by P.L.60-1988, SEC.36. Amended by P.L.342-1989(ss), SEC.37; P.L.98-2000, SEC.18.

IC 36-1-11-17

Terms of reconveyance or return

Sec. 17. If property disposed of under this chapter is to be reconveyed or automatically returned to the political subdivision or an agency of a political subdivision that disposed of the property, the terms of the reconveyance or return shall be as agreed to before the disposal. If the terms of the reconveyance are not set forth before the disposal, the political subdivision shall obtain at least two (2) appraisals and pay not more than the average of the two (2) appraisals.

As added by P.L.82-1995, SEC.11.

IC 36-1-11-18

School corporations in LaPorte County; transfer to governmental agency

Sec. 18. (a) This section applies to a school corporation located in LaPorte County.

(b) Notwithstanding any other law, a school corporation may transfer real property to any other governmental agency in exchange for services provided to the school corporation.

(c) This section constitutes the only authority necessary for a

school corporation to make real property available for exchange under this section. A school corporation is not required to apply any additional procedures to an exchange made under this section.
As added by P.L.257-2013, SEC.43.

IC 36-1-12

Chapter 12. Public Work Projects

IC 36-1-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

- (1) The addition of section 21 of this chapter by P.L.20-1991 applies to public works contracts for which notices calling for sealed proposals for the work are published after June 30, 1991.
- (2) The amendments made to this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.641.

IC 36-1-12-1

Application of chapter; alternatives to chapter

Sec. 1. (a) Except as provided in this section, this chapter applies to all public work performed or contracted for by:

- (1) political subdivisions; and
- (2) their agencies;

regardless of whether it is performed on property owned or leased by the political subdivision or agency.

(b) This chapter does not apply to an officer or agent who, on behalf of a municipal utility, maintains, extends, and installs services of the utility if the necessary work is done by the employees of the utility.

(c) This chapter does not apply to hospitals organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public work is financed in whole or in part with cumulative building fund revenue.

(d) This chapter does not apply to tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(e) As an alternative to this chapter, the governing body of a political subdivision or its agencies may do the following:

- (1) Enter into a design-build contract as permitted under IC 5-30.
- (2) Participate in a utility efficiency program or enter into a guaranteed savings contract as permitted under IC 36-1-12.5.

(f) This chapter does not apply to a person that has entered into an operating agreement with a political subdivision or an agency of a political subdivision under IC 5-23.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.182-1985, SEC.16; P.L.214-1989, SEC.7; P.L.24-1993, SEC.5; P.L.2-1993, SEC.199; P.L.1-1994, SEC.173; P.L.82-1995, SEC.12; P.L.49-1997, SEC.73; P.L.168-2006, SEC.2; P.L.71-2009, SEC.4; P.L.99-2009, SEC.3; P.L.1-2010, SEC.145.

IC 36-1-12-1.2

Definitions

Sec. 1.2. The following definitions apply throughout this chapter:

- (1) "Board" means the board or officer of a political subdivision or an agency having the power to award contracts for public work.
- (2) "Contractor" means a person who is a party to a public work contract with the board.
- (3) "Subcontractor" means a person who is a party to a contract with the contractor and furnishes and performs labor on the public work project. The term includes material men who supply contractors or subcontractors.
- (4) "Escrowed income" means the value of all property held in an escrow account over the escrowed principal in the account.
- (5) "Escrowed principal" means the value of all cash and securities or other property placed in an escrow account.
- (6) "Operating agreement" has the meaning set forth in IC 5-23-2-7.
- (7) "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.
- (8) "Property" means all:
 - (A) personal property, fixtures, furnishings, inventory, and equipment; and
 - (B) real property.
- (9) "Public fund" means all funds that are:
 - (A) derived from the established revenue sources of a political subdivision or an agency of a political subdivision; and
 - (B) deposited in a general or special fund of a municipal corporation, or another political subdivision or agency of a political subdivision.The term does not include funds received by any person managing or operating a public project under a duly authorized operating agreement under IC 5-23 or proceeds of bonds payable exclusively by a private entity.
- (10) "Retainage" means the amount to be withheld from a payment to the contractor or subcontractor until the occurrence of a specified event.
- (11) "Specifications" means a description of the physical characteristics, functional characteristics, extent, or nature of any public work required by the board.
- (12) "Substantial completion" refers to the date when the construction of a structure is sufficiently completed, in accordance with the plans and specifications, as modified by any complete change orders agreed to by the parties, so that it can be occupied for the use for which it was intended.

As added by P.L.329-1985, SEC.9. Amended by P.L.82-1995, SEC.13; P.L.73-1995, SEC.3; P.L.49-1997, SEC.74; P.L.91-2014, SEC.34.

IC 36-1-12-1.4

Repealed

(Repealed by P.L.82-1995, SEC.20.)

IC 36-1-12-1.6

Repealed

(Repealed by P.L.82-1995, SEC.20.)

IC 36-1-12-2

"Public work" defined

Sec. 2. As used in this chapter, "public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.2; P.L.329-1985, SEC.12; P.L.337-1987, SEC.1.

IC 36-1-12-2.2

Repealed

(Repealed by P.L.82-1995, SEC.20.)

IC 36-1-12-2.4

Repealed

(Repealed by P.L.82-1995, SEC.20.)

IC 36-1-12-2.6

Repealed

(Repealed by P.L.82-1995, SEC.20.)

IC 36-1-12-3

Public work projects

Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than one hundred fifty thousand dollars (\$150,000). Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes:

- (1) the actual cost of materials, labor, equipment, and rental;
- (2) a reasonable rate for use of trucks and heavy equipment owned; and
- (3) all other expenses incidental to the performance of the

project.

(b) This subsection applies only to a municipality or a county. The workforce of a municipality or county may perform a public work described in subsection (a) only if:

(1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and

(2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the board:

(A) publishes a notice under IC 5-3-1 that:

(i) describes the public work that the board intends to perform with its own workforce; and

(ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(d) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than one hundred thousand dollars (\$100,000).

(e) Municipal and county hospitals must comply with this chapter for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars (\$50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(f) If a public works project involves a structure, an improvement, or a facility under the control of a department (as defined in IC 4-3-19-2(2)), the department may not artificially divide the project to bring any part of the project under this section.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.3; P.L.329-1985, SEC.16; P.L.337-1987, SEC.2; P.L.66-1987, SEC.29; P.L.12-1991, SEC.6; P.L.21-1995, SEC.146;

P.L.82-1995, SEC.14; P.L.49-1997, SEC.75; P.L.172-2011, SEC.138.

IC 36-1-12-3.5

Contracts for engineering, architectural, or accounting services; applicability of restrictions of general statutes

Sec. 3.5. When any public work is proposed to be performed and the board determines by a two-thirds (2/3) vote that it is expedient and in the best public interest to employ professional engineering, architectural, or accounting services for the planning and financing of the public work and the preparation of plans and specifications, then the limitations and restrictions in the general statutes with respect to invalidity of contracts without an appropriation therefor, payment of fees solely from the proceeds of bonds or assessments when and if issued, and payment of fees solely from a special fund or funds to be provided in the future, do not apply to contracts for those professional services to the extent that such limitations and restrictions might otherwise prevent the payment of fees for services actually rendered in connection with those contracts or affect the obligation to pay those fees.

As added by Acts 1982, P.L.33, SEC.16.

IC 36-1-12-4

Bidding procedures for projects costing more than certain amounts

Sec. 4. (a) This section applies whenever the cost of a public work project will be:

- (1) except as provided in subdivision (2), at least one hundred fifty thousand dollars (\$150,000); or
- (2) in the case of a board of aviation commissioners or an airport authority board, at least one hundred thousand dollars (\$100,000).

(b) The board must comply with the following procedure:

- (1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.
- (2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).
- (3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.
- (4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.
- (5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The

period of time between the date of the first publication and receiving bids may not be more than:

(A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars (\$25,000,000); and

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars (\$25,000,000).

(6) The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.

(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply:

(A) The board makes a written determination that it is in the best interest of the board to delay the opening.

(B) The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening.

(8) Except as provided in subsection (c), the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.

(10) In determining whether a bidder is responsive, the board may consider the following factors:

(A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.

(B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.

(C) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:

(A) The ability and capacity of the bidder to perform the work.

(B) The integrity, character, and reputation of the bidder.

- (C) The competence and experience of the bidder.
- (12) The board shall require the bidder to submit an affidavit:
 - (A) that the bidder has not entered into a combination or agreement:
 - (i) relative to the price to be bid by a person;
 - (ii) to prevent a person from bidding; or
 - (iii) to induce a person to refrain from bidding; and
 - (B) that the bidder's bid is made without reference to any other bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.4; P.L.329-1985, SEC.17; P.L.213-1986, SEC.4; P.L.252-1993, SEC.3; P.L.82-1995, SEC.15; P.L.22-2001, SEC.1; P.L.169-2006, SEC.48; P.L.113-2010, SEC.108; P.L.139-2011, SEC.6; P.L.172-2011, SEC.139; P.L.6-2012, SEC.241; P.L.17-2012, SEC.2; P.L.67-2012, SEC.2.

IC 36-1-12-4.5

Bond or certified check; filing by bidders

Sec. 4.5. (a) The political subdivision or agency:

- (1) shall require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be more than two hundred thousand dollars (\$200,000); and
- (2) may require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000).

(b) The amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond or certified check shall be made payable to the political subdivision or agency.

(c) All checks of unsuccessful bidders shall be returned to them by the board upon selection of successful bidders. Checks of successful bidders shall be held until delivery of the performance bond, as provided in section 14(e) of this chapter.

As added by P.L.329-1985, SEC.18. Amended by P.L.133-2007, SEC.12.

IC 36-1-12-4.7

Procedures for inviting quotes; applicable dollar amounts

Sec. 4.7. (a) This section applies whenever a public work project is estimated to cost:

- (1) except as provided in subdivision (2), at least fifty thousand dollars (\$50,000) and less than one hundred fifty thousand dollars (\$150,000); or
 - (2) in the case of a board of aviation commissioners or an airport authority board, at least fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000).
- (b) The board must proceed under the following provisions:
- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
 - (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
 - (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.
 - (4) The board may reject all quotes submitted.

As added by P.L.82-1995, SEC.16. Amended by P.L.22-2001, SEC.2; P.L.1-2002, SEC.154; P.L.169-2006, SEC.49; P.L.195-2007, SEC.7; P.L.172-2011, SEC.140; P.L.17-2012, SEC.3; P.L.67-2012, SEC.3.

IC 36-1-12-4.9

Alternate procedures for projects costing less than \$150,000

Sec. 4.9. (a) This section applies to a public work for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property if the cost of the public work is estimated to be less than one hundred fifty thousand dollars (\$150,000).

(b) The board may award a contract for public work described in subsection (a) in the manner provided in IC 5-22.

As added by P.L.176-2009, SEC.24.

IC 36-1-12-5

Procedures for inviting quotes; small projects

Sec. 5. (a) This section applies whenever a public work project is estimated to cost less than fifty thousand dollars (\$50,000). Except as provided in subsection (g) for local boards of aviation commissioners and local airport authorities, if a contract is to be awarded, the board may proceed under section 4 of this chapter or under subsection (b) or (c).

- (b) The board must proceed under the following provisions:
- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
 - (2) The board may not require a person to submit a quote before

the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.

(4) The board may reject all quotes submitted.

(5) If the board rejects all quotes under subdivision (4), the board may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the board establishes in writing the reasons for rejecting the quotes.

(c) The board may not proceed under subsection (b) for the resurfacing (as defined in IC 8-14-2-1) of a road, street, or bridge, unless:

(1) the weight or volume of the materials in the project is capable of accurate measurement and verification; and

(2) the specifications define the geographic points at which the project begins and ends.

(d) For the purposes of this section, if contiguous sections of a road, street, or bridge are to be resurfaced in a calendar year, all of the work shall be considered to comprise a single public work project.

(e) The board may purchase or lease supplies in the manner provided in IC 5-22 and perform the public work by means of its own workforce without awarding a public work contract.

(f) Before the board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work.

(g) This subsection applies to local boards of aviation commissioners operating under IC 8-22-2 and local airport authorities operating under IC 8-22-3. If the contract is to be awarded by a board to which this subsection applies, or to a designee of the board under subsection (h), the board or its designee may proceed under section 4 of this chapter or under the following provisions. The board or its designee may invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing the persons a copy of the plans and specifications for the work not less than seven (7) days before the time fixed for receiving quotes. If the board or its designee receives a satisfactory quote, the board or its designee shall award the contract to the lowest responsible and responsive quoter for the class of work required. The board or its designee may reject all quotes submitted and, if no valid quotes are received for the class of work, contract for the work without further invitations for quotes.

(h) The board may delegate its authority to award a contract for a public works project that is estimated to cost less than fifty thousand dollars (\$50,000) to the airport personnel in charge of airport public works projects.

(i) Quotes for public works projects costing less than twenty-five thousand dollars (\$25,000) may be obtained by soliciting at least

three (3) quotes by telephone or facsimile transmission. The seven (7) day waiting period required by subsection (b)(1) does not apply to quotes solicited under this subsection.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.5; P.L.329-1985, SEC.19; P.L.85-1991, SEC.4; P.L.21-1995, SEC.147; P.L.82-1995, SEC.17; P.L.49-1997, SEC.76; P.L.195-2007, SEC.8; P.L.172-2011, SEC.141; P.L.17-2012, SEC.4; P.L.67-2012, SEC.4.

IC 36-1-12-6

Contracts; notice to proceed; failure to award and execute contract and to issue notice; election by bidder to reject contract

Sec. 6. (a) Except as provided in subsections (b) and (c), the board shall award the contract and shall provide the successful bidder with written notice to proceed within sixty (60) days after the date on which bids are opened.

(b) If general obligation bonds are to be sold to finance the construction that is the subject of the bid, the board shall allow the bidder ninety (90) days.

(c) If revenue bonds are to be issued, when approved by the utility regulatory commission, or if special taxing district, special benefit, or revenue bonds are to be issued and sold to finance the construction, the board shall allow the bidder one hundred fifty (150) days.

(d) A failure to award and execute the contract and to issue notice within the time required by this section entitles the successful bidder to:

- (1) reject the contract and withdraw his bid without prejudice; or
- (2) extend the time to award the contract and provide notice to proceed at an agreed later date.

If the successful bidder elects to reject the contract and withdraw his bid, notice of that election must be given to the board in writing within fifteen (15) days of the sixty (60) day expiration date or any other extension date.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.23-1988, SEC.116.

IC 36-1-12-7

Public buildings; approval of plans and specifications by licensed architect or engineer

Sec. 7. Public work performed or contracted for on a public building, the cost of which is more than one hundred thousand dollars (\$100,000) may be undertaken by the board only in accordance with plans and specifications approved by an architect or engineer licensed under IC 25-4 or IC 25-31.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.3-1989, SEC.225; P.L.312-1995, SEC.1.

IC 36-1-12-8

Road, street, or bridge work; open price provisions; price adjustments of materials; limitations

Sec. 8. The board may award a public work contract for road, street, or bridge work subject to the open price provisions of IC 26-1-2-305. The contract may provide that prices for construction materials are subject to price of materials adjustment. When price adjustments are part of the contract, the method of price adjustments shall be specified in the contract. However, this section does not authorize the expenditure of money above the total amount of money appropriated by the political subdivision or agency for road, street, or bridge contracts.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.20.

IC 36-1-12-9

Emergencies; contracts by invitation

Sec. 9. (a) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.

(b) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.21.

IC 36-1-12-10

Plans and specifications; approval by various agencies

Sec. 10. All plans and specifications for public buildings must be approved by the state department of health, the division of fire and building safety, and other state agencies designated by statute.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.8-1984, SEC.123; P.L.2-1992, SEC.886; P.L.1-2006, SEC.553.

IC 36-1-12-11

Completion of project; procedure

Sec. 11. (a) The board must, within sixty (60) days after the completion of the public work project, file in the division of fire and building safety a complete set of final record drawings for the public work project. However, this requirement does not apply to a public work project constructed at a cost less than one hundred thousand dollars (\$100,000). In addition, the filing of the drawings is required only if the project involves a public building.

(b) The division of fire and building safety shall provide a depository for all final record drawings filed, and retain them for inspection and loan under regulated conditions. The fire prevention and building safety commission may designate the librarian of Indiana as the custodian of the final record drawings. The librarian shall preserve the final record drawings in the state archives as public documents.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.8-1984, SEC.124; P.L.329-1985, SEC.22; P.L.1-2006, SEC.554.

IC 36-1-12-12

Final payment; requirements; claims by subcontractors, laborers, or suppliers; disputes

Sec. 12. (a) When a public work project is to be performed, the board shall withhold final payment to the contractor until the contractor has paid the subcontractors, material suppliers, laborers, and those furnishing services. However, if there is not a sufficient sum owed to the contractor to pay those bills, the sum owed to the contractor shall be prorated in payment of the bills among the claimants entitled to payment.

(b) To receive payment a subcontractor, material supplier, laborer, or person furnishing services must file a claim with the board not later than sixty (60) days after that person performed the last labor, furnished the last material, or performed the last service as provided in section 13 of this chapter.

(c) If there is no dispute among the claimants, the board shall pay the claim from the money due the contractor and deduct the amount of the claims from the contract price. The board shall take a receipt for each payment made on a claim.

(d) If there is a dispute among the claimants, the board shall retain sufficient money to pay the claims until the dispute is settled and the correct amount is determined. However, the board may make a final and complete settlement with the contractor after thirty (30) days after the date of the completion and acceptance of the public work if the contractor has materially fulfilled all of its obligations under the public works contract.

(e) If the board receives a claim from a subcontractor or a material supplier under this section, the board shall withhold the amount of the claim until the claim is resolved under this section.

(f) A claim form must be signed by an individual from the political subdivision or agency who is directly responsible for the project and who can verify:

- (1) the quantity of a purchased item; or
- (2) the weight or volume of the material applied, in the case of a road, street, or bridge project.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.23; P.L.75-2012, SEC.9.

IC 36-1-12-13

Contract provision for payment of subcontractors, laborers, or suppliers

Sec. 13. A contract for public work must contain a provision for the payment of subcontractors, laborers, material suppliers, and those performing services. The board shall withhold money from the contract price in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.337-1987,

SEC.3.

IC 36-1-12-13.1

Payment bond for public work projects in excess of \$200,000; claims; suits on bond; waiver of payment bond

Sec. 13.1. (a) Except as provided in subsection (e), the appropriate political subdivision or agency:

(1) shall require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be more than two hundred thousand dollars (\$200,000); and

(2) may require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000).

The payment bond is binding on the contractor, the subcontractor, and their successors and assigns for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services.

(b) The payment bond shall be deposited with the board. The payment bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;

(2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety. The surety of the payment bond may not be released until one (1) year after the board's final settlement with the contractor.

(c) A person to whom money is due for labor performed, material furnished, or services provided must, not later than sixty (60) days after that person completed the labor or service or after that person furnished the last item of material:

(1) file with the board signed duplicate statements of the amount due; and

(2) deliver a copy of the statement to the contractor.

The board shall forward to the surety of the payment bond one (1) of the signed duplicate statements. However, failure of the board to forward a signed duplicate statement does not affect the rights of a person to whom money is due. In addition, a failure of the board to forward the statement does not operate as a defense for the surety.

(d) An action may not be brought against the surety before thirty (30) days after:

(1) the filing of the signed duplicate statements with the board;
and

(2) delivery of a copy of the statement to the contractor.

If the indebtedness is not paid in full at the end of that thirty (30) day period the person may bring an action in court. The court action must be brought not later than sixty (60) days after the date of the final completion and acceptance of the public work.

(e) This subsection applies to contracts for a capital improvement entered into by, for, or on behalf of the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for the capital improvement project may waive any payment bond requirement if the board, after public notice and hearing, determines:

(1) that:

(A) an otherwise responsive and responsible bidder is unable to provide the payment bond; or

(B) the cost or coverage of the payment bond is not in the best interest of the project; and

(2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

As added by P.L.337-1987, SEC.4. Amended by P.L.82-1995, SEC.18; P.L.120-2006, SEC.4; P.L.133-2007, SEC.13; P.L.75-2012, SEC.10.

IC 36-1-12-14

Contracts in excess of \$200,000; retaining portions of payments; escrow agreements; performance bonds; payment on substantial completion; actions against surety contracts less than \$250,000

Sec. 14. (a) This section applies to public work contracts in excess of two hundred thousand dollars (\$200,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. A board may require a contractor and subcontractor to include contract provisions for retainage as set forth in this section for contracts that are not more than two hundred thousand dollars (\$200,000). This section also applies to a lessor corporation qualifying under IC 20-47-2 or IC 20-47-3 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

(b) A board that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or

contractor and subcontractor under a written agreement among the bank or savings and loan institution and:

- (1) the board and the contractor; or
- (2) the subcontractor and the contractor.

The board shall not be required to pay interest on the amounts of retainage that it holds under this section.

(c) To determine the amount of retainage to be withheld, the board shall:

- (1) withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or
- (2) withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) shall be withheld until those items are completed.

(d) The escrow agreement must contain the following provisions:

- (1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.
- (2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.
- (3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) Except as provided by subsections (i) and (h), the contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor.

The performance bond must specify that:

- (1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
- (2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;
does not discharge the surety.

(f) The board or escrow agent shall pay the contractor within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. Payment by the escrow agent shall include all escrowed principal and escrowed income. If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars (\$250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

(i) This subsection applies to the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for a capital improvement project may waive any performance bond requirement if the board, after public notice and hearing, determines:

(1) that:

(A) an otherwise responsive and responsible bidder is unable to provide the performance bond; or

(B) the cost or coverage of the performance bond is not in the best interest of the project; and

(2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.70-1989, SEC.3; P.L.43-2003, SEC.1; P.L.120-2006, SEC.5; P.L.2-2006, SEC.189; P.L.1-2007, SEC.239; P.L.133-2007, SEC.14.

IC 36-1-12-15

Wage scale and antidiscrimination provisions

Sec. 15. (a) A contract by the board for public work must conform to the wage scale provisions of IC 5-16-7.

(b) A contract by the board for public work must conform with the antidiscrimination provisions of IC 5-16-6. The board may consider a violation of IC 5-16-6 a material breach of the contract, as provided in IC 22-9-1-10.

As added by Acts 1981, P.L.57, SEC.38.

IC 36-1-12-16

Necessity of compliance with chapter

Sec. 16. A contract for public work by a political subdivision or agency is void if it is not let in accordance with this chapter.

As added by Acts 1981, P.L.57, SEC.38.

IC 36-1-12-17

Road or street work contracts; timely payment of claims; final payment; interest for late payment

Sec. 17. (a) A contract for road or street work must contain a provision for the timely payment of claims made by the contractor.

(b) Each contract must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

(c) For each day after one hundred twenty (120) days, the board shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payment is not directly attributable to the board. The annual percentage rate of interest that the board shall pay on the unpaid balance is twelve percent (12%).

As added by P.L.340-1983, SEC.1.

IC 36-1-12-18

Change or alteration of specifications; change orders

Sec. 18. (a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract.

As added by P.L.329-1985, SEC.24.

IC 36-1-12-19

Dividing cost of a single public work project into two or more projects; prohibition; penalty

Sec. 19. (a) For purposes of this section, the cost of a public work project includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.

(b) The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids.

(c) A bidder or quoter or a person who is a party to a public work contract who knowingly violates this section commits a Class A infraction and may not be a party to or benefit from any contract under this chapter for two (2) years from the date of the conviction.

(d) Any board member or officer of a political subdivision or agency who knowingly violates this section commits a Class A infraction.

As added by P.L.216-1986, SEC.1.

IC 36-1-12-20

Trench safety systems; cost recovery

Sec. 20. (a) This section applies to a public works project that may require creation of a trench of at least five (5) feet in depth.

(b) IOSHA regulations 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract documents for a public works project.

(c) The contract documents for a public works project shall provide that the cost for trench safety systems shall be paid for:

- (1) as a separate pay item; or
- (2) in the pay item of the principal work with which the safety systems are associated.

As added by P.L.26-1989, SEC.21.

IC 36-1-12-21

Plumbing installations; proof of licensure

Sec. 21. (a) A person who submits a bid for a public works contract under this chapter that involves the installation of plumbing must submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(b) If a public works contract under this chapter is awarded to a person who does not meet the requirements of subsection (a), the contract is void.

As added by P.L.20-1991, SEC.13.

IC 36-1-12-22

Repealed

(Repealed by P.L.17-2012, SEC.5; P.L.67-2012, SEC.5.)

IC 36-1-12-23

Application of IC 5-22-16.5 to award of contracts under article

Sec. 23. (a) IC 5-22-16.5 (Disqualification of Contractors Dealing

with the Government of Iran) applies to the awarding of contracts, including contracts for professional services, under this chapter.

(b) For purposes of applying IC 5-22-16.5 to contracts awarded under this chapter, the following apply:

(1) A reference to an "offer" in IC 5-22-16.5 refers to:

(A) a bid for a contract; or

(B) a proposal to provide professional services; under this chapter.

(2) A person may not be awarded a contract under this chapter if the person would be disqualified from being awarded a contract under IC 5-22-16.5.

(3) The procedures, rights, and application of penalties described in IC 5-22-16.5 shall be applied in the context of this chapter so that the public policy of IC 5-22-16.5 and this chapter are both implemented.

As added by P.L.21-2012, SEC.8.

IC 36-1-12.5

Chapter 12.5. Guaranteed Savings Contracts; Energy Efficiency Programs Used by School Corporations

IC 36-1-12.5-0.5

"Actual savings" defined

Sec. 0.5. As used in this chapter, "actual savings" includes stipulated savings.

As added by P.L.98-2002, SEC.1.

IC 36-1-12.5-0.6

"Billable revenues" defined; "billable revenue increases" defined; "revenues" defined

Sec. 0.6. As used in this chapter, "billable revenues", "billable revenue increases", and "revenues" include only revenues of a municipal water or wastewater utility operated by a political subdivision.

As added by P.L.168-2006, SEC.3.

IC 36-1-12.5-0.7

"Causally connected work" defined

Sec. 0.7. As used in this chapter, "causally connected work" means work that is required to properly implement a conservation measure.

As added by P.L.98-2002, SEC.2. Amended by P.L.168-2006, SEC.4.

IC 36-1-12.5-1

"Conservation measure" defined

Sec. 1. (a) As used in this chapter, "conservation measure":

(1) means:

(A) a facility alteration;

(B) an alteration of a structure (as defined in IC 36-1-10-2);

(C) a technology upgrade; or

(D) with respect to an installation described in subdivision

(2)(G) or (2)(H), an alteration of a structure or system;

designed to provide billable revenue increases or reduce energy or water consumption costs, wastewater costs, or other operating costs; and

(2) includes the following:

(A) Providing insulation of the facility or structure and systems in the facility or structure.

(B) Installing or providing for window and door systems, including:

(i) storm windows and storm doors;

(ii) caulking or weatherstripping;

(iii) multi-glazed windows and doors;

(iv) heat absorbing or heat reflective glazed and coated windows and doors;

(v) additional glazing;

(vi) the reduction in glass area; and

(vii) other modifications that reduce energy consumption.

- (C) Installing automatic energy control systems.
- (D) Modifying or replacing heating, ventilating, or air conditioning systems.
- (E) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.
- (F) Providing for other conservation measures that provide billable revenue increases or reduce energy or water consumption, reduce operating costs, or reduce wastewater costs, including future:
 - (i) labor costs;
 - (ii) costs or revenues for contracted services; and
 - (iii) related capital expenditures.
- (G) Installing equipment upgrades that improve accuracy of billable revenue generating systems.
- (H) Installing automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.

(b) The term does not include an alteration of a water or wastewater structure or system that increases the capacity of the structure or system.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.3; P.L.98-2002, SEC.3; P.L.168-2006, SEC.5; P.L.71-2009, SEC.5; P.L.99-2009, SEC.4.

IC 36-1-12.5-1.5

"Governing body" defined

Sec. 1.5. As used in this chapter, "governing body" means the following:

- (1) With respect to school corporations, the governing body (as defined in IC 20-18-2-5).
- (2) With respect to a public library, the library board (as defined in IC 36-12-1-3).
- (3) With respect to a library described in IC 36-12-7-8, the trustees of the library.
- (4) With respect to a political subdivision that operates a municipal water or wastewater utility and in connection with the installation of a conservation measure to a water or wastewater structure or system under this chapter, the board or officer that has the power to award contracts.
- (5) With respect to other political subdivisions for any other project or program under this chapter, the legislative body (as defined in IC 36-1-2-9).

As added by P.L.208-1995, SEC.4. Amended by P.L.227-1999, SEC.12; P.L.1-2005, SEC.235; P.L.168-2006, SEC.6.

IC 36-1-12.5-2

"Guaranteed savings contract" defined

Sec. 2. As used in this chapter, "guaranteed savings contract"

refers to a contract entered into under this chapter, in which a qualified provider enters into an agreement with the governing body to:

- (1) evaluate and recommend to the governing body conservation measures; and
- (2) provide for the implementation of at least one (1) conservation measure.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.5; P.L.168-2006, SEC.7.

IC 36-1-12.5-2.5

"Industry engineering standards" defined

Sec. 2.5. As used in this chapter, "industry engineering standards" includes the following:

- (1) Lifecycle costing.
- (2) The R. S. Means estimating method developed by the R. S. Means Company.
- (3) Historical data.
- (4) Manufacturer's data.
- (5) American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) standards.

As added by P.L.98-2002, SEC.4. Amended by P.L.1-2010, SEC.146.

IC 36-1-12.5-3

"Qualified provider" defined

Sec. 3. (a) As used in this chapter, "qualified provider" means the following:

- (1) Before July 1, 1999, the term means a person that satisfies both of the following:
 - (A) The person is experienced in the design, implementation, and installation of energy conservation measures.
 - (B) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of the guaranteed energy savings contract.
- (2) After June 30, 1999, the term means a person that satisfies all of the following:
 - (A) Subject to subdivision (3), the person is experienced in the design, implementation, and installation of energy conservation measures.
 - (B) The person is certified and meets the requirements of IC 4-13.6-4. The person's response to the request for proposals must include a copy of the person's certificate of qualification issued under IC 4-13.6-4.
 - (C) Subject to subdivision (3), the person provides energy conservation engineering services by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of

each professional engineer employed by the person to satisfy the requirement of this clause.

(D) The person provides:

- (i) monitoring for the facility performance guarantee; and
- (ii) service personnel under the person's direct employment and supervision;

for the duration of the contract's guarantee.

(E) The person performs at least twenty percent (20%) of the work (measured in dollars of the total contract price) with its own workforce.

(F) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of:

- (i) the guaranteed energy savings contract; or
- (ii) the guaranteed savings contract.

(3) With respect to conservation measures for which a contract is executed after June 30, 2006, the term includes a person that satisfies the following:

(A) The person is experienced in the design, implementation, and installation of conservation measures.

(B) The person provides engineering services with respect to conservation measures by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.

(b) For purposes of a guaranteed energy savings contract entered into before July 1, 1999, a person who was a qualified provider under subsection (a)(1) at the time the contract was entered into remains a qualified provider for that contract after June 30, 1999. If the person enters into:

(1) a guaranteed energy savings contract after June 30, 1999, and before July 1, 2006, the person must satisfy the requirements of subsection (a)(2); or

(2) a guaranteed savings contract after June 30, 2006, the person must satisfy the requirements of subsection (a)(2) and (a)(3);

to be considered a qualified provider.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.6; P.L.58-1999, SEC.10; P.L.168-2006, SEC.8.

IC 36-1-12.5-3.5

"Related capital expenditures" defined

Sec. 3.5. As used in this chapter, "related capital expenditures" includes capital costs that:

(1) the governing body reasonably believes will be incurred during the contract term;

(2) are part of or are causally connected to the conservation measures being implemented; and

(3) are documented by industry engineering standards.
As added by P.L.98-2002, SEC.5. Amended by P.L.168-2006, SEC.9.

IC 36-1-12.5-3.7

"Stipulated savings" defined

Sec. 3.7. As used in this chapter, "stipulated savings" are assumed savings that are documented by industry engineering standards.
As added by P.L.98-2002, SEC.6.

IC 36-1-12.5-4

"Utility efficiency program" defined

Sec. 4. As used in this chapter, "utility efficiency program" refers to an energy, a water, or a wastewater efficiency program that:

- (1) includes a conservation measure;
 - (2) is established by a public utility (as defined in IC 8-1-8.7-2);
- and
- (3) is undertaken pursuant to this chapter.

As added by P.L.24-1993, SEC.6. Amended by P.L.168-2006, SEC.10.

IC 36-1-12.5-5

Agreements to participate in programs or enter into contracts; necessary findings, notice, and provisions

Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility efficiency program or enter into a guaranteed savings contract with a qualified provider to increase the political subdivision's billable revenues or reduce the school corporation's or the political subdivision's energy or water consumption, wastewater usage costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

- (1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed;
 - (2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed;
- and
- (3) in the case of a guaranteed savings contract, the qualified

provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

- (1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:
 - (A) a utility efficiency program; or
 - (B) a guaranteed savings contract; and
- (2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

- (1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;
- (2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and
- (3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

- (1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;
- (2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;
- (3) in the case of the guaranteed savings contract:

(A) the:

- (i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and
- (ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(e) An agreement or a contract under this chapter is subject to IC 5-16-7.

As added by P.L.24-1993, SEC.6. Amended by P.L.212-1995, SEC.2; P.L.208-1995, SEC.7; P.L.168-2006, SEC.11; P.L.71-2009, SEC.6; P.L.99-2009, SEC.5.

IC 36-1-12.5-5.3

Certification of subcontractor required

Sec. 5.3. (a) This section applies only to a guaranteed energy savings contract or a guaranteed savings contract entered into after June 30, 1999.

(b) A qualified provider may enter into a subcontract:

(1) with a value of more than one hundred fifty thousand dollars (\$150,000); and

(2) for the performance of any part of a guaranteed energy savings contract or guaranteed savings contract;

only if the subcontractor is certified under IC 4-13.6-4.

As added by P.L.58-1999, SEC.11. Amended by P.L.168-2006, SEC.12.

IC 36-1-12.5-5.5

Procedures for issuance of bonds by political subdivisions not applicable

Sec. 5.5. IC 6-1.1-20 does not apply to an agreement to participate in:

(1) a utility efficiency program; or

(2) a guaranteed savings contract;

entered into under this chapter.

As added by P.L.212-1995, SEC.3. Amended by P.L.168-2006, SEC.13.

IC 36-1-12.5-6

Report before installation or remodeling

Sec. 6. (a) Before the public utility or the qualified provider may install equipment in, make modifications to, or remodel a building or complex of buildings under a utility efficiency program or a guaranteed savings contract, the public utility or the qualified provider (whichever applies) must issue a report that includes estimates for the following:

(1) All costs attributable to the work stipulated in the agreement or the contract, including the costs of design, engineering, installation, maintenance, repairs, or debt service.

(2) The amounts by which:

(A) energy or water consumption;

(B) wastewater costs; or

(C) operating costs;
will be reduced.

(3) The amounts by which billable revenues will be increased.

(b) The report must also contain a listing of contractors and subcontractors to be used by the public utility or the qualified provider with respect to the conservation measures.

As added by P.L.24-1993, SEC.6. Amended by P.L.168-2006, SEC.14.

IC 36-1-12.5-7

Installment payment contracts; maximum period

Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of twenty (20) years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of twenty (20) years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:

(1) the vendor under the guaranteed savings contract; or

(2) a third party financial institution or company.

As added by P.L.24-1993, SEC.6. Amended by P.L.212-1995, SEC.4; P.L.208-1995, SEC.8; P.L.168-2006, SEC.15; P.L.71-2009, SEC.7; P.L.99-2009, SEC.6.

IC 36-1-12.5-8

Approval required

Sec. 8. Conservation measures installed under a utility efficiency program or a guaranteed savings contract must be approved by the following:

- (1) The state department of health, division of fire and building safety, and any other state agency designated by statute.
- (2) An architect or engineer licensed under IC 25-4 or IC 25-31 if the conservation measures have a cost of more than fifty thousand dollars (\$50,000).

As added by P.L.24-1993, SEC.6. Amended by P.L.1-2006, SEC.555; P.L.168-2006, SEC.16.

IC 36-1-12.5-9

Payroll records required; inspection

Sec. 9. (a) The contractor and each subcontractor engaged in installing conservation measures under a guaranteed savings contract shall keep full and accurate records indicating the names, classifications, and work performed by each worker employed by the respective contractor and subcontractor in connection with the work, together with an accurate record of the number of hours worked by each worker and the actual wages paid.

(b) The payroll records required to be kept under this section must be open to inspection by an authorized representative of the governing body or the department of labor.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.9; P.L.168-2006, SEC.17.

IC 36-1-12.5-10

Submission of contract and annual report to lieutenant governor

Sec. 10. The governing body shall:

- (1) provide to the lieutenant governor not more than sixty (60) days after the date of execution of the guaranteed savings contract:

(A) a copy of the executed guaranteed savings contract;

(B) the:

- (i) energy or water consumption costs;
- (ii) wastewater usage costs; and
- (iii) billable revenues, if any;

before the date of execution of the guaranteed savings contract; and

(C) the documentation using industry engineering standards for:

- (i) stipulated savings; and
- (ii) related capital expenditures; and

- (2) annually report to the lieutenant governor, in accordance with procedures established by the lieutenant governor, the savings resulting in the previous year from the guaranteed savings contract or utility efficiency program.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.10; P.L.98-2002, SEC.7; P.L.1-2006, SEC.556; P.L.168-2006, SEC.18.

IC 36-1-12.5-11

Contracts that include stipulated savings

Sec. 11. (a) A guaranteed savings contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards.

(b) Stipulated savings may be used for conservation measures including the following:

- (1) Heating.
- (2) Air conditioning.
- (3) Ventilating.
- (4) Lighting.
- (5) Roofing.
- (6) Windows.
- (7) Water conservation.
- (8) Fuel and power improvements.
- (9) Wastewater generation.
- (10) Billable revenue increases.
- (11) Any work that is causally connected to the conservation measures listed in subdivisions (1) through (10).

(c) The guaranteed savings contract shall:

- (1) describe stipulated savings for:
 - (A) conservation measures; and
 - (B) work causally connected to the conservation measures;and
- (2) document assumptions by industry engineering standards.

As added by P.L.98-2002, SEC.8. Amended by P.L.168-2006, SEC.19.

IC 36-1-12.5-12

Improvements not causally connected to conservation measure

Sec. 12. (a) An improvement that is not causally connected to a conservation measure may be included in a guaranteed savings contract if:

- (1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed savings contract; and
- (2) either:
 - (A) the improvement is necessary to conform to a law, a rule, or an ordinance; or
 - (B) an analysis within the guaranteed savings contract demonstrates that:
 - (i) there is an economic advantage to the political subdivision in implementing an improvement as part of the guaranteed savings contract; and
 - (ii) the savings justification for the improvement is documented by industry engineering standards.

(b) The information required under subsection (a) must be reported to the lieutenant governor.

As added by P.L.98-2002, SEC.9. Amended by P.L.1-2006, SEC.557; P.L.168-2006, SEC.20.

IC 36-1-12.7

Chapter 12.7. Use of Energy Efficient Technology

IC 36-1-12.7-1

Application of definitions in IC 36-1-12

Sec. 1. The definitions in IC 36-1-12 apply throughout this chapter.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-2

"Energy efficient technology"

Sec. 2. As used in this chapter, "energy efficient technology" refers to any of the following:

- (1) Geothermal heating and cooling.
- (2) Geothermal hot water generation.
- (3) Solar hot water generation.
- (4) Photovoltaic power generation.
- (5) Wind power generation.
- (6) Combined heat and power.
- (7) Heat recovery chillers.
- (8) Condensing boilers and low temperature heat.
- (9) Air to air energy recovery devices.
- (10) Autoclaved aerated concrete.
- (11) Automated meter readers.
- (12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-3

Board to consider energy efficient technologies

Sec. 3. The board shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-4

Use of energy efficient technologies

Sec. 4. To the extent technically and economically feasible, the board shall consider the use of energy efficiency technology in the plans and specifications for the public works project.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-5

Records of contacts and analysis of energy efficient technologies in contract file

Sec. 5. The board shall keep a record of the following in the public works contract file:

- (1) The contacts the board makes with persons that provide energy efficient technology to implement this chapter.
- (2) An analysis of the feasibility of using energy efficient technology in the public works project.

As added by P.L.159-2003, SEC.3.

IC 36-1-13

Chapter 13. Cost Saving Incentive Programs

IC 36-1-13-1

Employee

Sec. 1. As used in this chapter, "employee" refers to an employee of a political subdivision.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-2

Program

Sec. 2. As used in this chapter, "program" refers to a cost saving incentive program established by a political subdivision under this chapter.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-3

Program establishment

Sec. 3. (a) A political subdivision may establish a program to provide incentives to employees of the political subdivision to develop and implement cost saving measures for the political subdivision.

(b) A program established under this chapter may include awards to employees who suggest cost saving measures to the political subdivision.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-4

Method of program establishment

Sec. 4. If a political subdivision that elects to establish a program has the power to adopt ordinances, the program shall be established by ordinance. If a political subdivision that elects to establish a program does not have the power to adopt ordinances, the program shall be established by resolution.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-5

Awards; appropriations; joint awards; program details

Sec. 5. (a) An ordinance or a resolution adopted under section 4 of this chapter must provide for the following:

(1) The designation of an established or a new entity of the political subdivision to:

(A) review cost saving measures and suggestions submitted by employees; and

(B) determine whether a cost saving measure or a suggestion is entitled to an award under the program.

(2) The manner by which the amount of an award for a cost saving measure or a suggestion eligible for an award under the program will be determined. The political subdivision may base the amount of the award on anticipated savings or on other

criteria specified in the ordinance or resolution that the political subdivision considers appropriate.

(3) The maximum award that may be received.

(4) Payment of awards to employees eligible to receive awards under the program.

(b) The political subdivision may make necessary appropriations to implement the program.

(c) The ordinance or resolution that establishes a program may provide for a joint award for a group of employees that develop and implement a cost saving measure.

(d) The ordinance or resolution that establishes a program may provide for other details of the program that:

(1) the political subdivision considers appropriate; and

(2) are consistent with this chapter.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-6

Finality of decisions; additional awards

Sec. 6. (a) A decision of the entity designated or established under the ordinance or resolution that establishes a program is final as to the following:

(1) The eligibility of a measure or a suggestion for an award.

(2) The amount of an award.

(b) An employee of a political subdivision that establishes a program under this chapter is not entitled to an award other than is provided in this chapter and under the ordinance or resolution that establishes a program.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-7

Program termination

Sec. 7. A political subdivision that establishes a program under this chapter may terminate the program by adopting an ordinance or a resolution that provides for payment of awards for measures or suggestions:

(1) eligible for an award under the program; and

(2) implemented or made before the ordinance or resolution that terminates the program takes effect.

As added by P.L.254-1993, SEC.1.

IC 36-1-14
Chapter 14. Donations

IC 36-1-14-1
Requirements for donations to foundations; exception

Sec. 1. (a) This section does not apply to donations of gaming revenue to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, "gaming revenue" means either of the following:

- (1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.
- (2) Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or gaming revenue to a foundation under the following conditions:

- (1) The foundation is a charitable nonprofit community foundation.
- (2) The foundation retains all rights to the donation, including investment powers.
- (3) The foundation agrees to do the following:
 - (A) Hold the donation as a permanent endowment.
 - (B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.
 - (C) Return the donation to the general fund of the unit if the foundation:
 - (i) loses the foundation's status as a public charitable organization;
 - (ii) is liquidated; or
 - (iii) violates any condition of the endowment set by the fiscal body of the unit.

As added by P.L.313-1995, SEC.1. Amended by P.L.17-2000, SEC.2; P.L.1-2005, SEC.236; P.L.231-2005, SEC.51; P.L.1-2006, SEC.558; P.L.2-2006, SEC.190; P.L.142-2009, SEC.32.

IC 36-1-14-1.5
Surplus earnings of municipally owned utilities; donation to local economic development organizations; qualifying municipalities; existing obligations

Sec. 1.5. (a) This section applies to a municipality that meets both of the following:

- (1) The municipality has a municipally owned utility that has donated funds of the municipally owned utility to a local economic development organization before July 1, 2012.
- (2) The municipality is a city having a population of more than eleven thousand (11,000) but less than eleven thousand four

hundred fifty (11,450).

(b) As used in this section, "local economic development organization" includes the following:

(1) A nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana.

(2) A nonprofit educational organization whose primary purpose is educating and developing local leadership for economic development initiatives.

(3) Any similar organization, including a partnership between private enterprise and one (1) or more units, the purposes of which include:

(A) promoting development activities in one (1) or more units;

(B) coordinating local efforts to attract jobs and new business investment;

(C) providing assistance to existing businesses to foster growth and job retention; and

(D) sustaining and improving the quality of life in the units served.

(c) A municipal legislative body, with the approval of the board (as defined in IC 8-1.5-3-2) of the municipality's municipally owned utility, may donate funds from the municipally owned utility's surplus earnings (as defined in IC 8-1.5-3-11) to a local economic development organization as long as the terms and conditions of any bond ordinance, resolution, indenture, contract under IC 8-1-2.2, or similar instrument binding upon the municipally owned utility are complied with before the donation is made.

As added by P.L.226-2013, SEC.1.

IC 36-1-14-2

Income from community foundation

Sec. 2. A unit may use income received under this chapter from a community foundation only for purposes of the unit.

As added by P.L.313-1995, SEC.1.

IC 36-1-14.2

Chapter 14.2. Insurance for Charitable Health Care Services

IC 36-1-14.2-1

Authorization to disburse funds; use; liability

Sec. 1. A state or local governmental unit is authorized to disburse funds to a medical clinic or health care facility that provides health care to individuals without compensation. Funding obtained under this section must be used by the clinic or facility to purchase professional liability insurance to provide the clinic or facility with:

- (1) medical malpractice protection; and
- (2) compensation for required surcharges;

under IC 34-18. However, the disbursement of funds by a state or local governmental unit does not create any liability for that unit as a result of any acts or omissions of the medical clinic or health care facility that receives the funds.

As added by P.L.286-1995, SEC.2. Amended by P.L.1-1998, SEC.203.

IC 36-1-14.2-2

Purchase of professional liability insurance

Sec. 2. Whenever a medical clinic or health care facility purchases professional liability insurance under section 1 of this chapter, the clinic or facility must purchase the insurance directly from an insurance company.

As added by P.L.286-1995, SEC.2.

IC 36-1-14.2-3

Immunity from civil liability

Sec. 3. A person who provides health care to an individual at a medical clinic or health care facility described in this chapter is immune from civil liability to the extent described in IC 34-30-13.

As added by P.L.286-1995, SEC.2. Amended by P.L.1-1998, SEC.204.

IC 36-1-14.3

Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 36-1-15
Chapter 15. Debt Limitation

IC 36-1-15-1
Application of chapter

Sec. 1. This chapter applies to:

- (1) a unit; and
- (2) any other political subdivision for which a statute imposes an assessed value limitation on the aggregate amount of bonds that the political subdivision may issue.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-2
Legislative intent

Sec. 2. It is the intent of the general assembly that the amount of debt incurred by a political subdivision after February 28, 2001, not exceed, in the aggregate, the amount of debt that the political subdivision could have incurred under:

- (1) Article 13, Section 1 of the Constitution of the State of Indiana; and
- (2) any statute imposing an assessed value limitation on the aggregate amount of bonds that a political subdivision may issue;

if property were assessed at thirty-three and one-third percent (33.33%) of true tax value.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-3
Computation of adjusted value of taxable property within political subdivision

Sec. 3. The department of local government finance shall compute, in conjunction with the approvals required under:

- (1) IC 6-1.1-18.5-8(b); and
- (2) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10;

an adjusted value of the taxable property within each political subdivision. The department of local government finance may request a certification of net assessed valuation from the county auditor in order to make a calculation under this section.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.466; P.L.2-2006, SEC.191.

IC 36-1-15-4
Adjusted value

Sec. 4. The adjusted value of the taxable property in a political subdivision is equal to the result determined under STEP TWO of the following formula:

STEP ONE: Determine the value of the taxable property within the political subdivision for the last assessment for state and county taxes using one hundred percent (100%) of true tax value.

STEP TWO: Divide the STEP ONE amount by three (3).
As added by P.L.6-1997, SEC.203.

IC 36-1-15-5

Duties of department of local government finance

Sec. 5. The department of local government finance shall do the following:

(1) Maintain a schedule of the adjusted value of taxable property of each political subdivision.

(2) Provide the political subdivision and the county auditor for the county in which a political subdivision is located with the latest adjusted value of taxable property determined for the political subdivision.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.467.

IC 36-1-15-6

Restrictions on indebtedness

Sec. 6. Subject to section 7 of this chapter, a political subdivision may not become indebted in any manner or for any purpose in an amount in the aggregate that exceeds two percent (2%) of the latest adjusted value of taxable property determined for the political subdivision immediately preceding the incurring of the indebtedness. However, if a statute limits the debt of a political subdivision to a percentage other than two percent (2%) of the value of taxable property in the political subdivision, the political subdivision may not become indebted in an amount that exceeds the percentage set by statute multiplied by the latest adjusted value of taxable property determined for the political subdivision immediately preceding the incurring of the indebtedness.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-7

Permitted excess of debt limitation

Sec. 7. A political subdivision may incur debt that exceeds the maximum amount allowed under section 6 of this chapter as necessary for the public protection and defense only:

(1) in time of war, foreign invasion, or other great public calamity; and

(2) upon petition of a majority of the property owners in number and value within the limits of the political subdivision.

The amount of the excess may not be greater than the amount specified in the petition.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-8

Debt in excess of maximum amount void

Sec. 8. Debt in excess of the maximum amount specified in sections 6 and 7 of this chapter is void.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-9

Liability for erroneous determination or computation

Sec. 9. The department of local government finance is not liable for an erroneous determination or computation made by the department under this chapter.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.468.

IC 36-1-16

Chapter 16. Displays on Public Property

IC 36-1-16-1

Applicability of chapter

Sec. 1. This chapter governs the display of objects on real property owned by a political subdivision.

As added by P.L.22-2000, SEC.2.

IC 36-1-16-2

Display of Ten Commandments on political subdivision property

Sec. 2. An object containing the words of the Ten Commandments may be displayed on real property owned by a political subdivision along with other documents of historical significance that have formed and influenced the United States legal or governmental system. Such display of an object containing the words of the Ten Commandments shall be in the same manner and appearance generally as other documents and objects displayed, and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

As added by P.L.22-2000, SEC.2.

IC 36-1-17

Chapter 17. Defense Expenses for Unit and Municipal Corporation Officers and Employees

IC 36-1-17-1

"Criminal action"

Sec. 1. As used in this chapter, "criminal action" means a prosecution against an individual alleging the commission of a felony or misdemeanor.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-2

Legal expenses of officer or employee

Sec. 2. Except as provided in section 3 of this chapter, a unit or municipal corporation may not pay the legal expenses incurred by an officer or employee of the unit or the municipal corporation:

(1) in defending against:

(A) a criminal action;

(B) a civil action brought by the attorney general of the United States, a United States attorney, the attorney general of Indiana, or an Indiana prosecuting attorney under:

(i) IC 34-24-1;

(ii) IC 34-24-2;

(iii) IC 34-24-3;

(iv) IC 5-11-5;

(v) IC 5-11-6;

(vi) IC 5-13-6;

(vii) IC 5-13-14-3; or

(viii) 18 U.S.C. 1964; or

(C) a proceeding to enforce an ordinance or a statute defining an infraction; or

(2) who is the target of a grand jury investigation, if the scope of the investigation includes a claim that the officer or employee committed a criminal act.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-3

Legal expenses of officer or employee charged with crime or infraction

Sec. 3. (a) An officer or employee of a unit or municipal corporation who is charged with:

(1) a crime; or

(2) an infraction;

relating to an act that was within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges. The fiscal body of the unit or municipal corporation shall reimburse the

officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges.

(b) An officer or employee of a unit or municipal corporation who is the target of a grand jury investigation may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred by the officer or employee resulting from the grand jury investigation, if the grand jury fails to indict the officer or employee and the acts investigated by the grand jury were within the scope of the official duties of the officer or employee. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred by the officer or employee as a result of the grand jury investigation, if the grand jury fails to indict the officer or employee.

(c) An officer or employee of a unit or municipal corporation who is the defendant in a civil action described in section 2(1)(B)(i) through section 2(1)(B)(viii) of this chapter and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense in the civil action. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action if:

- (1) all claims that formed the basis of the civil action have been dismissed; or
- (2) a judgment is rendered in favor of the officer or employee on all counts in the civil action.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-4

Application for legal expenses; hearing; questions and information regarding reimbursement

Sec. 4. The fiscal body of a unit or municipal corporation may:

- (1) act on an application under section 3 of this chapter without a hearing; and
- (2) require an officer or employee seeking reimbursement under this chapter to:
 - (A) answer questions under oath; or
 - (B) provide information or documents concerning the case or investigation for which the officer or employee is seeking reimbursement.

As added by P.L.128-2005, SEC.1.

IC 36-1-18

Chapter 18. Donations to a State University From a Political Subdivision

IC 36-1-18-1

Application

Sec. 1. This chapter applies to a county, city, town, or township in which a state educational institution is located whenever:

- (1) at least:
 - (A) fifty (50) freeholders and taxpayers of the political subdivision, if the political subdivision is a county; or
 - (B) twenty-five (25) freeholders of the political subdivision, if the political subdivision is a city, town, or township;petition the legislative body of the political subdivision to make a donation to a state educational institution that is located in the political subdivision;
- (2) the donation proposed in the petition does not exceed:
 - (A) twenty-five thousand dollars (\$25,000), if the petition is made to a county or city; or
 - (B) ten thousand dollars (\$10,000), if the petition is made to a township or town; and
- (3) neither the political subdivision nor any other political subdivision in the same county has made another donation to the state educational institution under this chapter, IC 21-7-1 (before its repeal), or Acts 1897, c.39, s.2 (before its repeal).

As added by P.L.2-2007, SEC.381.

IC 36-1-18-2

Donation by political subdivision; ordinance or resolution required

Sec. 2. The legislative body of a political subdivision may adopt:

- (1) an ordinance, if the political subdivision is a county, city, or town; or
- (2) a resolution, if the political subdivision is a township;

to make a donation to a state educational institution located in the political subdivision. The amount of the donation may not exceed the amount named in the petition submitted to the political subdivision under this chapter.

As added by P.L.2-2007, SEC.381.

IC 36-1-18-3

Warrant for donation

Sec. 3. An ordinance or resolution under this chapter is sufficient justification for the proper officer to draw a warrant and pay the donation authorized by the political subdivision's legislative body.

As added by P.L.2-2007, SEC.381.

IC 36-1-18-4

Terms and conditions

Sec. 4. The legislative body making a donation under this chapter may make all proper agreements with a state educational institution

with reference to the purpose for which the donation must be used. The terms and conditions under which the money is donated, when made and accepted, are binding on the state educational institution accepting the donation.

As added by P.L.2-2007, SEC.381.

IC 36-1-19

Chapter 19. Knox County Tax Levy for Vincennes University

IC 36-1-19-1

Levy by county council

Sec. 1. The county council of Knox County may fix and establish annually the rate of a special tax levy to be imposed on the taxable property of Knox County, for the support of Vincennes University. This levy may not exceed in any year, three cents (\$0.03) on each one hundred dollars (\$100) of the taxable property in Knox County. All revenue accruing from any tax levy imposed under this section shall be paid:

- (1) into the county treasury as a separate and distinct fund; and
- (2) to the proper fiduciary officer of Vincennes University on warrant of the county auditor.

As added by P.L.2-2007, SEC.382.

IC 36-1-19-2

Payment by county; payment by state

Sec. 2. At the time the county auditor of Knox County makes the county auditor's regular semiannual settlement with the proper fiduciary officer of Vincennes University for the proceeds of the special tax levy that may be then due Vincennes University under this chapter, the county auditor shall also forward to the auditor of state a certificate showing:

- (1) the total valuation of the taxable property of Knox County;
- (2) the special tax rate established by the county council for the support of Vincennes University for the current year; and
- (3) the total amount paid on behalf of Knox County as public aid to Vincennes University at the semiannual settlement.

Semiannually upon receipt of the certificate, the auditor of state shall promptly draw and forward to Vincennes University a warrant on the treasurer of state in double the amount shown by the certificate of the Knox County auditor to have been paid as public aid to Vincennes University at the semiannual settlement. The warrant must be charged to and paid out of the state general fund.

As added by P.L.2-2007, SEC.382.

IC 36-1-20

Chapter 20. Regulation of Residential Leases

IC 36-1-20-1

Applicable definitions

Sec. 1. The definitions in IC 32-31-3 apply throughout this chapter.

As added by P.L.212-2011, SEC.1.

IC 36-1-20-1.5

"Rental unit community"

Sec. 1.5. As used in this chapter, "rental unit community" means one (1) or more parcels of contiguous real property upon which are located one (1) or more structures containing rental units, if:

- (1) the combined total of all rental units in all of the structures is five (5) or more rental units; and
- (2) the rental units are not occupied solely by the owner or the owner's family.

As added by P.L.193-2014, SEC.2.

IC 36-1-20-2

Assessment of tenants for fees assessed by political subdivision; exceptions

Sec. 2. (a) Except as provided in subsection (b), the owner of a rental unit assessed any fee by a political subdivision pertaining to the rental unit may:

- (1) notify the tenants of the rental unit of the assessment of the fee; and
- (2) require the tenants of the rental unit to reimburse the owner for the payment of the fee.

(b) Tenants of a rental unit may not be required to reimburse the owner of a rental unit for fees assessed by a political subdivision relating to the construction of the rental unit, such as building permit fees.

As added by P.L.212-2011, SEC.1. Amended by P.L.193-2014, SEC.3.

IC 36-1-20-3

Deposit of fees in dedicated fund; budgeting of money in fund; nonreversion

Sec. 3. Any fee assessed and collected by a political subdivision pertaining exclusively to a rental unit or rental unit community must be maintained in a special fund dedicated solely to reimbursing the costs actually incurred by the political subdivision relating to the imposition and amount of the fee. Each fund shall be maintained as a separate line item in the political subdivision's budget. Money in the fund may not at any time revert to the general fund or any other fund of the political subdivision.

As added by P.L.212-2011, SEC.1. Amended by P.L.193-2014, SEC.4.

IC 36-1-20-3.5

Permit to lease rental units, when authorized; participation in class or program as condition prohibited; section not applicable to registration or inspection programs created before July 1, 1984

Sec. 3.5. (a) This section does not apply to a political subdivision with a rental registration or inspection program created before July 1, 1984.

(b) A political subdivision may not require a rental unit's owner or landlord to do any of the following:

(1) Except as provided in subsection (c), obtain a permit to lease the rental unit.

(2) Participate in a class or government program as a condition for leasing the rental unit.

(c) Notwithstanding subsection (b), a political subdivision may require a rental unit's owner or landlord to obtain a permit only as follows:

(1) A fee may not be charged to obtain a permit.

(2) Except when there is a change of ownership of the real property, a permit does not expire. A political subdivision may require a new owner of the real estate to obtain a new permit.

(3) Only one (1) permit may be required for a rental unit community.

As added by P.L.193-2014, SEC.5.

IC 36-1-20-4

Repealed

(Repealed by P.L.193-2014, SEC.6.)

IC 36-1-20-4.1

Rental unit inspection programs; limitations; fees; section not applicable to registration or inspection programs created before July 1, 1984

Sec. 4.1. (a) This section does not apply to a political subdivision with a rental registration or inspection program created before July 1, 1984. This section does not apply to a manufactured housing community or mobile home community that is licensed, permitted, and inspected by the state department of health.

(b) Except as provided in subsection (c), this chapter does not prohibit a political subdivision from establishing and enforcing a program for inspecting rental units.

(c) Except as provided in subsection (d), after June 30, 2014, a political subdivision may not inspect a rental unit or impose a fee pertaining to the inspection of a rental unit, if the rental unit satisfies all of the following:

(1) The rental unit is:

(A) managed by; or

(B) part of a rental unit community that is managed by; a professional real estate manager.

(2) During the previous twelve (12) months, the rental unit has been inspected or is part of a rental unit community that has

been inspected by either of the following:

(A) By or for:

- (i) the United States Department of Housing and Urban Development, the Indiana Housing and Community Development Authority, or another federal or state agency; or
- (ii) a financial institution or insurance company authorized to do business in Indiana.

(B) By an inspector who:

- (i) is a registered architect;
- (ii) is a professional engineer; or
- (iii) satisfies qualifications for an inspector of rental units prescribed by the political subdivision.

The inspector may not be an employee of the owner or landlord.

(3) A written inspection report of the inspection under subdivision (2) has been issued to the owner or landlord of the rental unit or rental unit community (as applicable) that verifies that the rental unit or rental unit community is safe and habitable with respect to:

- (A) electrical supply and electrical systems;
- (B) plumbing and plumbing systems;
- (C) water supply, including hot water;
- (D) heating, ventilation, and air conditioning equipment and systems;
- (E) bathroom and toilet facilities;
- (F) doors, windows, stairways, and hallways;
- (G) functioning smoke detectors; and
- (H) the structure in which a rental unit is located.

A political subdivision may not add to the requirements of this subdivision.

(4) The inspection report issued under subdivision (3) is delivered to the political subdivision on or before the due date set by the political subdivision.

(d) This subsection applies to all rental units, including a rental unit that meets the requirements for an exemption under subsection (c). A political subdivision may inspect a rental unit, if the political subdivision:

- (1) has reason to believe; or
- (2) receives a complaint;

that the rental unit does not comply with applicable code requirements. However, in the case of a rental unit that meets the requirements for an exemption under subsection (c), the political subdivision may not impose a fee pertaining to the inspection of the rental unit. If an inspection of a rental unit reveals a violation of applicable code requirements, the owner of the rental unit may be subject to a penalty as provided in section 6 of this chapter.

(e) This subsection applies only to a rental unit that meets the requirements for an exemption under subsection (c). If the inspection report for the rental unit or rental unit community is prepared by or

for the United States Department of Housing and Urban Development, the inspection report is valid for purposes of maintaining the exemption under subsection (c) until:

- (1) the date specified in the inspection report; or
 - (2) thirty-six (36) months after the date of the inspection report;
- whichever is earlier.

As added by P.L.193-2014, SEC.7.

IC 36-1-20-5

Rental unit registration program; limitations; fees; section not applicable to registration or inspection programs created before July 1, 1984

Sec. 5. (a) This section does not apply to a political subdivision with a rental registration or inspection program created before July 1, 1984.

(b) This chapter does not prohibit a political subdivision from establishing and enforcing a registration program for rental units within the political subdivision.

(c) A political subdivision may impose on an owner or landlord of a rental unit an annual registration fee of not more than five dollars (\$5).

(d) A registration fee imposed under subsection (c) covers all the rental units in a rental unit community. However, if a rental unit is not part of a rental unit community, a registration fee may be imposed for each separate parcel of real property on which a rental unit is located.

(e) If the ownership of a rental unit community or the ownership of a parcel of real property on which a rental unit is located changes, a political subdivision may require the new owner of the rental unit community or new owner of the real estate parcel to:

- (1) pay an annual registration fee of not more than five dollars (\$5); and
- (2) provide updated registration information to the political subdivision;

not later than thirty (30) days after the change of ownership.

As added by P.L.193-2014, SEC.8.

IC 36-1-20-6

Imposition of penalties for nuisances and violations of political subdivision's ordinances or codes

Sec. 6. (a) This chapter does not prevent a political subdivision from imposing and collecting a penalty for an act or omission that is a nuisance or violation of the political subdivision's enforceable ordinances or codes, subject to subsection (b).

(b) A penalty permitted under subsection (a) may not be imposed until after:

- (1) reasonable notice of the nuisance or violation has been given to the owner or the owner's designee;
- (2) passage of a reasonable time, which must be stated in the notice, for the nuisance or violation to be cured; and

(3) failure of the nuisance or violation to be cured within the time stated in the notice.

As added by P.L.193-2014, SEC.9.

IC 36-1-20.2

Chapter 20.2. Nepotism

IC 36-1-20.2-1

Applicability

Sec. 1. This chapter applies to all units.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-2

Individuals employed on July 1, 2012

Sec. 2. An individual who is employed by a unit on July 1, 2012, is not subject to this chapter unless the individual has a break in employment with the unit. The following are not considered a break in employment with the unit:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

(2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-3

Precinct election officers and volunteer firefighters not subject to chapter

Sec. 3. For purposes of this chapter, the performance of the duties of:

(1) a precinct election officer (as defined in IC 3-5-2-40.1) that are imposed by IC 3; or

(2) a volunteer firefighter;

is not considered employment by a unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-4

"Direct line of supervision"

Sec. 4. (a) For the purposes of this chapter, a person is in the "direct line of supervision" of an elected officer or employee if the elected officer or employee is in a position to affect the terms and conditions of the individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation.

(b) The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.

As added by P.L.135-2012, SEC.7. Amended by P.L.13-2013, SEC.149.

IC 36-1-20.2-5

"Employed"

Sec. 5. As used in this chapter, "employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-6

"Member of the fire department"

Sec. 6. As used in this chapter, "member of the fire department" means the fire chief or a firefighter appointed to the department.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-7

"Member of the police department"

Sec. 7. As used in this chapter, "member of the police department" means the police chief or a police officer appointed to the department.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-8

"Relative"

Sec. 8. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.
- (7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-9

Adoption of more stringent or detailed requirements

Sec. 9. (a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.

(b) The annual report filed by a unit with the state board of

accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-10

Employment of relatives in direct line of supervision prohibited

Sec. 10. Individuals who are relatives may not be employed by a unit in a position that results in one (1) relative being in the direct line of supervision of the other relative.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-11

Employee not in violation if relative assumes elected office; promotions

Sec. 11. (a) This section applies to an individual who:

- (1) is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and
- (2) is not exempt from the application of this chapter under section 2 of this chapter.

(b) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate section 10 of this chapter.

(c) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual described in subsection (b) may not:

- (1) be promoted to a position; or
- (2) be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or merit fire department;

if the new position would violate section 10 of this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-12

Employment contract not abrogated

Sec. 12. This chapter does not abrogate or affect an employment contract with a unit that:

- (1) an individual is a party to; and
- (2) is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-13

Sheriff's employment of spouse as prison matron allowed

Sec. 13. Unless the policy adopted under section 9 of this chapter provides otherwise, a sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-14

Employment of former coroner allowed

Sec. 14. Unless the policy adopted under section 9 of this chapter provides otherwise, an individual:

- (1) who served as coroner;
- (2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;
- (3) who, as coroner, received certification under IC 36-2-14-22.3; and
- (4) whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-15

Township trustee; hiring of relative to work in office located in residence permitted; salary limit

Sec. 15. If the township trustee's office is located in the township trustee's personal residence, unless the policy adopted under section 9 of this chapter provides otherwise the township trustee may hire only one (1) employee who is a relative. The employee:

- (1) may be hired to work only in the township trustee's office;
- (2) may be in the township trustee's direct line of supervision; and
- (3) may not receive total salary, benefits, and compensation that exceed five thousand dollars (\$5,000) per year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-16

Annual certification by elected officer

Sec. 16. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-17

Noncompliance reported to the department of local government finance

Sec. 17. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-18

Budget or additional appropriations may not be approved

Sec. 18. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

(1) the unit's budget; or

(2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-21

Chapter 21. Contracting With a Unit

IC 36-1-21-1

Applicability

Sec. 1. This chapter applies only to a unit.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-2

"Elected official"

Sec. 2. As used in this chapter, "elected official" means:

- (1) the executive or a member of the executive body of the unit;
- (2) a member of the legislative body of the unit; or
- (3) a member of the fiscal body of the unit.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-3

"Relative"

Sec. 3. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.
- (7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-4

Adoption of more stringent or detailed requirements

Sec. 4. (a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit or restrict an individual from entering into a contract with the unit that is not otherwise prohibited or restricted by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-5

Contract disclosure requirements

Sec. 5. (a) A unit may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

- (1) an individual who is a relative of an elected official; or
- (2) a business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements of this section are satisfied and the elected official does not violate IC 35-44.1-1-4.

(b) A unit may enter into a contract or renew a contract with an individual or business entity described in subsection (a) if:

- (1) the elected official files with the unit a full disclosure, which must:

- (A) be in writing;
- (B) describe the contract or purchase to be made by the unit;
- (C) describe the relationship that the elected official has to the individual or business entity that contracts or purchases;
- (D) be affirmed under penalty of perjury;
- (E) be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and
- (F) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:
 - (i) the state board of accounts; and
 - (ii) the clerk of the circuit court in the county where the unit takes final action on the contract or purchase;

- (2) the appropriate agency of the unit:

- (A) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or
- (B) makes a certified statement of the reasons why the vendor or contractor was selected; and

- (3) the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.

(c) An elected official shall also comply with the disclosure provisions of IC 35-44.1-1-4, if applicable.

(d) This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

As added by P.L.135-2012, SEC.8. Amended by P.L.13-2013, SEC.150.

IC 36-1-21-6

Annual certification by officer

Sec. 6. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification

to the executive of the unit not later than December 31 of each year.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-7

Noncompliance reported to the department of local government finance

Sec. 7. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-8

Budget or additional appropriations may not be approved

Sec. 8. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

(1) the unit's budget; or

(2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit has adopted a policy under this chapter.

As added by P.L.135-2012, SEC.8.

IC 36-1-22

Chapter 22. Regulation of Builders or Remodelers

IC 36-1-22-1

"Builder"

Sec. 1. As used in this chapter, "builder" means a person engaged in constructing new homes.

As added by P.L.218-2014, SEC.20.

IC 36-1-22-2

"Person"

Sec. 2. As used in this chapter, "person" means an individual, firm, limited liability company, corporation, association, or other legal entity.

As added by P.L.218-2014, SEC.20.

IC 36-1-22-3

"Remodeler"

Sec. 3. As used in this chapter, "remodeler" means a person engaged in altering, repairing, restoring, maintaining, or modifying an existing residential dwelling.

As added by P.L.218-2014, SEC.20.

IC 36-1-22-4

"Residential dwelling"

Sec. 4. As used in this chapter, "residential dwelling" means a building or part of a building occupied by or intended for the occupancy of one (1) or more individuals. The term does not include a residential dwelling that is owned by the political subdivision.

As added by P.L.218-2014, SEC.20.

IC 36-1-22-5

Local licensing of builders or remodelers prohibited

Sec. 5. After February 28, 2013, a political subdivision may not adopt an ordinance, rule, policy, or other requirement providing that a builder or remodeler must be licensed, certified, permitted, registered, or listed by the political subdivision as a condition to the builder or remodeler:

- (1) constructing a new residential dwelling; or
- (2) remodeling an existing residential dwelling.

As added by P.L.218-2014, SEC.20.

IC 36-1-22-6

Local regulation unaffected by prohibition

Sec. 6. This chapter does not do any of the following:

- (1) Void an ordinance, rule, policy, or other requirement of a political subdivision adopted before March 1, 2013.
- (2) Prohibit a political subdivision from doing any of the following:

- (A) Requiring a person who engages in a specific building or

construction trade, including an electrician, a plumber, a tile layer, a landscaper, or a practitioner of another specific trade, to be licensed, permitted, registered, or listed by the political subdivision before engaging in the specific building or construction trade.

(B) Issuing building permits, septic system permits, certificates of appropriateness, zoning approvals, plat approvals, and other permits and approvals that regulate the use, planning, and development of property.

As added by P.L.218-2014, SEC.20.