

IC 36-10

ARTICLE 10. RECREATION, CULTURE, AND COMMUNITY FACILITIES

IC 36-10-1

Chapter 1. Definitions

IC 36-10-1-1

Application of chapter

Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

As added by Acts 1980, P.L.211, SEC.5. Amended by Acts 1981, P.L.309, SEC.107.

IC 36-10-1-2

"Park purposes"

Sec. 2. "Park purposes" include the establishment, equipment, and operation of parks, boulevards, pleasure drives, parkways, wheelways, park boulevards, bridlepaths, playgrounds, playfields, bathhouses, comfort stations, swimming pools, community centers, recreation centers, other recreational facilities, and recreational programs.

As added by Acts 1981, P.L.309, SEC.108.

IC 36-10-1-3

"Public way"

Sec. 3. "Public way" includes highway, street, avenue, boulevard, road, lane, or alley.

As added by Acts 1981, P.L.309, SEC.109.

IC 36-10-1-4

"Capital improvement"

Sec. 4. "Capital improvement" means the building, facilities, or improvements that a capital improvement board determines will be of general public benefit or welfare and will promote the cultural, recreational, public, or civic well-being of the community, including a convention center. This includes the land comprising the site, equipment, heating and air-conditioning facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that are necessary to make any building, facility, or improvement suitable for the use for which it was constructed.

As added by Acts 1982, P.L.218, SEC.1. Amended by P.L.82-1985, SEC.8.

IC 36-10-1-5

"Convention center"

Sec. 5. "Convention center" means a building or buildings containing facilities for meetings, conventions, commencements, convocations, sporting events, entertainment spectacles, product

displays, or other displays of industrial or cultural value, which facilities may be used for cultural, governmental, educational, recreational, exhibition, or civic purposes. The term also includes the site, landscaping, parking, site improvement, and provision of related services incidental to these purposes.

As added by Acts 1982, P.L.218, SEC.2.

IC 36-10-2

Chapter 2. General Powers Concerning Recreation, Culture, and Community Facilities

IC 36-10-2-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-2

Recreation facilities and programs

Sec. 2. A unit may establish, aid, maintain, and operate public parks, playgrounds, and recreation facilities and programs.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-3

Recreational use of watercourse

Sec. 3. A unit may regulate any recreational use of a watercourse.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-4

Libraries, museums, and other facilities and programs

Sec. 4. A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution or service facilities and programs.

As added by Acts 1980, P.L.211, SEC.5. Amended by P.L.32-2000, SEC.26.

IC 36-10-2-5

Neighborhood centers, arenas, and stadiums

Sec. 5. A unit may establish, aid, maintain, and operate neighborhood centers, community centers, civic centers, convention centers, auditoriums, arenas, and stadiums.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-6

Extraterritorial powers

Sec. 6. A municipality may exercise powers granted by sections 2, 4, and 5 of this chapter in areas within four (4) miles outside its corporate boundaries.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-3

Chapter 3. General Park and Recreation Law

IC 36-10-3-1

Application of chapter

Sec. 1. This chapter applies to the following units:

- (1) All counties.
- (2) All municipalities.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.319, SEC.1; P.L.354-1985, SEC.1; P.L.227-1986, SEC.1; P.L.157-1991, SEC.2.

IC 36-10-3-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a park and recreation board.

"Department" refers to a department of parks and recreation.

"District" means the area within the jurisdiction of a department.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-3

Department of parks and recreation; creation; transfer of property to park and recreation board

Sec. 3. (a) The fiscal body of a unit may adopt an ordinance creating a department of parks and recreation and repealing in the ordinance or resolution prior ordinances or resolutions creating separate park and recreation authorities. The department consists of a park and recreation board, a superintendent, and other personnel that the board determines.

(b) After a board has been created, all books, papers, documents, and other property of former park and recreation authorities shall be transferred to and become the property of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.354-1985, SEC.2; P.L.11-1987, SEC.34; P.L.157-1991, SEC.3.

IC 36-10-3-4

Municipal board; membership; ex officio members; additional members

Sec. 4. (a) A city board consists of four (4) members to be appointed by the city executive. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member of the governing body of the school corporation selected by that body;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(b) A town board consists of four (4) members to be appointed by

the town legislative body. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Except as provided in section 4.1 of this chapter, not more than two (2) members may be affiliated with the same political party. Members of the board must be residents of the district. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member:
 - (A) of the governing body of the school corporation selected by that body; or
 - (B) designated by the governing body of the school corporation;
 - (2) a member of the governing body of the library district selected by that body; or
 - (3) both subdivisions (1) and (2).
- (c) A county board shall be appointed as follows:
- (1) Two (2) members shall be appointed by the judge of the circuit court.
 - (2) One (1) member shall be appointed by the county executive.
 - (3) Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions (1), (2), and (3) shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions (1) and (3) may be affiliated with the same political party. In a county having at least one (1) first or second class city, the creating ordinance must provide for one (1) ex officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the member appointed by the county executive. However, if a county has more than one (1) such city, the executives of those cities shall agree on the member. The member serves for a term coterminous with the term of the appointing executive or executives.

(d) Ex officio members have all the rights of regular members, including the right to vote. A vacancy in an ex officio position shall be filled by the appointing authority.

(e) Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on a board.

- (f) The creating ordinance in any county may provide for:
- (1) the county cooperative extension coordinator;
 - (2) the county extension educator; or
 - (3) a member of the county extension committee selected by the committee;

to serve as an ex officio member of the county board, in addition to the members provided for under subsection (c).

(g) The creating ordinance in a county having no first or second class cities may provide for a member of the county board to be selected by the board of supervisors of a soil and water conservation district in which a facility of the county board is located. The member

selected under this subsection is in addition to the members provided for under subsections (c) and (f).

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.1; P.L.207-1984, SEC.1; P.L.157-1991, SEC.4; P.L.40-1993, SEC.68; P.L.271-1993, SEC.1; P.L.2-1995, SEC.138; P.L.64-1998, SEC.3; P.L.128-2007, SEC.1.

IC 36-10-3-4.1

Town board; waiver of requirements

Sec. 4.1. A town legislative body may, by a majority vote, waive any or all of the following requirements of a town board member under section 4(b) of this chapter:

- (1) The requirement that a member of the town board be affiliated with a political party.
- (2) The requirement that not more than two (2) of the four (4) members of the town board be affiliated with the same political party.

A town legislative body may vote for a waiver only if the waiver is necessary due to the absence of persons who are willing to serve on the town board and who satisfy any or all of the requirements.

As added by P.L.128-2007, SEC.2.

IC 36-10-3-5

Board of park and recreation; initial appointments; vacancy

Sec. 5. (a) Initial appointments to a municipal board are as follows:

- (1) One (1) member for a term of one (1) year.
- (2) One (1) member for a term of two (2) years.
- (3) One (1) member for a term of three (3) years.
- (4) One (1) member for a term of four (4) years.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(b) Initial appointments to a county board are as follows:

- (1) The circuit court judge's appointments are for one (1) and three (3) year terms, respectively.
- (2) The county executive's appointment is for a two (2) year term.
- (3) The county fiscal body's appointments are for two (2) and four (4) year terms, respectively.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(c) An appointing authority shall make initial appointments within ninety (90) days after the creation of the department.

(d) If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term.

(e) In making initial appointments under subsections (a) or (b), an appointing authority, in order to provide continuity of experience and programs, shall give special consideration to the appointment of

members from previous park or recreation boards.

(f) If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.2.

IC 36-10-3-6

Board of park and recreation; removal; procedure

Sec. 6. A member may be removed only for cause, upon specific written charges filed against him. The charges shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the unit's fiscal body shall appoint a hearing officer. The person to hear the charges shall fix a date for a public hearing and give public notice at least ten (10) days in advance of the hearing. At the hearing the member is entitled to present evidence and argument and to be represented by counsel.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.3.

IC 36-10-3-7

Board of park and recreation; advisory member

Sec. 7. If a municipality is located in a county having a county board, the municipal and county boards may each designate a member to sit with the other board in an advisory capacity.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.4.

IC 36-10-3-8

Board of park and recreation; regular and special meetings; election of officers; quorum

Sec. 8. (a) All meetings of the board are open to the public. The board shall fix the time and place of its regular meetings, but it shall meet at least quarterly.

(b) Special meetings of the board may be called by the president or by any two (2) members by written request to the secretary. The secretary shall send to each member, at least two (2) days before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting.

(c) At its first regular meeting each year the board shall elect a president and a vice president. The vice president may act as president during the absence or disability of the president. The board may select a secretary either from within or outside its membership.

(d) A majority of the members constitutes a quorum. Action of the board is not official unless it is authorized by at least three (3) members present and acting.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-9

Board of park and recreation; compensation

Sec. 9. (a) The members of the board may receive a salary in an amount fixed by the fiscal body.

(b) If the board determines that members or employees should attend a state, regional, or national conference dealing with park and recreation problems, the board may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the board's appropriation.

(c) A fiscal body may appropriate and approve a per diem allowance to a member of a board for attending a meeting of the board.

(d) The unit shall provide suitable quarters for holding meetings and conducting the work of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.5; P.L.238-1997, SEC.1.

IC 36-10-3-10

Board of park and recreation; duties

Sec. 10. (a) The board shall:

- (1) exercise general supervision of and make rules for the department;
- (2) establish rules governing the use of the park and recreation facilities by the public;
- (3) provide police protection for its property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers; the deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers;
- (4) appoint the necessary administrative officers of the department and fix their duties;
- (5) establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics;
- (6) make recommendations and an annual report to the executive and fiscal body of the unit concerning the operation of the board and the status of park and recreation programs in the district;
- (7) prepare and submit an annual budget in the same manner as other executive departments of the unit; and
- (8) appoint a member of the board to serve on another kind of board or commission, whenever a statute allows a park or recreation board to do this.

(b) In a municipality, the board shall fix the compensation of officers and personnel appointed under subsections (a)(4) and (a)(5), subject to IC 36-4-7-5 and IC 36-4-7-6.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-11

Board of park and recreation; powers

Sec. 11. (a) The board may:

- (1) enter into contracts and leases for facilities and services;
- (2) contract with persons for joint use of facilities for the operation of park and recreation programs and related services;
- (3) contract with another board, a unit, or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the board for the use of park and recreation facilities or services;
- (4) acquire and dispose of real and personal property, either within or outside Indiana;
- (5) exercise the power of eminent domain under statutes available to municipalities;
- (6) sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns, the money received to be deposited in a nonreverting capital fund of the board;
- (7) engage in self-supporting activities as prescribed by section 22 of this chapter;
- (8) contract for special and temporary services and for professional assistance;
- (9) delegate authority to perform ministerial acts in all cases except where final action of the board is necessary;
- (10) prepare, publish, and distribute reports and other materials relating to activities authorized by this chapter;
- (11) sue and be sued collectively by its legal name, as the "_____ (unit's name) Park and Recreation Board", with service of process being had upon the president of the board, but costs may not be taxed against the board or its members in any action;
- (12) invoke any legal, equitable, or special remedy for the enforcement of this chapter, a park or recreation ordinance, or the board's own action taken under either; and
- (13) release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation board of the acquiring unit.

(b) The board may also lease any buildings or grounds belonging to the unit and located within a park to a person for a period not to exceed fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder, after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

(c) Notwithstanding subsection (b), the board may lease buildings or grounds belonging to the unit for a period of more than one (1)

year without soliciting the highest and best bidder or providing notice under IC 5-3-1 if:

- (1) the buildings or grounds are leased to an Indiana nonprofit corporation;
- (2) the buildings or grounds are operated as a public golf course; and
- (3) the golf course remains subject to rules and regulations promulgated by the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.6; P.L.228-1986, SEC.1; P.L.35-1990, SEC.72; P.L.328-1995, SEC.1.

IC 36-10-3-11.5

Legalization of operation of City of New Albany property by nonprofit corporation without a lease before July 1, 1995

Sec. 11.5. (a) This section applies to the city of New Albany.

(b) The operation of city owned buildings or grounds operated as a golf course by a nonprofit corporation before July 1, 1995, without a lease from the city, or under a lease that was not open to public bid to lease the buildings or grounds, is legalized and validated.

As added by P.L.220-2011, SEC.684. Amended by P.L.119-2012, SEC.235.

IC 36-10-3-12

Board of park and recreation; public or private sale of personal property declared to be surplus

Sec. 12. The board may sell, or order sold through a designated representative, by public or private sale, any personal property that the board has declared to be surplus at a regular or special meeting and has declared to have an aggregate appraised value of five thousand dollars (\$5,000) or less. Whenever the board decides to sell at a private sale, the board must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish, in the manner provided in IC 5-3-1:

- (1) the fact that a private sale will be held;
- (2) the location of the sale;
- (3) the dates of the beginning and end of the sale;
- (4) the time of day during which the sale will take place;
- (5) the kinds of items to be sold at the sale; and
- (6) the price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

If the board decides to sell at a public sale, the board shall conduct the sale in the manner provided by law for the unit.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-13

Superintendent of parks and recreation; appointment; qualifications; incumbents

Sec. 13. (a) This subsection applies to counties and towns. The

board may appoint a superintendent of parks and recreation. The board may not consider political affiliation in the selection of the superintendent.

(b) This subsection applies to cities. If a superintendent of parks and recreation is appointed, the superintendent shall be appointed under IC 36-4-9-2 without considering political affiliation.

(c) If there is more than one (1) superintendent of any park or recreation department involved at the time the creating ordinance is adopted, the board may appoint only one (1) superintendent for the new department.

(d) The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; or
- (2) have a certification or an advanced degree in the field of parks and recreation.

(e) An incumbent performing park and recreation functions in a supervisory capacity at the time a unit adopts a creating ordinance under this chapter is eligible for appointment as superintendent or as an assistant, but he must have the required training, experience, or certification.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.7; P.L.157-1991, SEC.5.

IC 36-10-3-14

Superintendent of parks and recreation; duties

Sec. 14. Under the direction of the board, the superintendent shall:

- (1) propose annually a plan for the operation of the department;
- (2) administer the plan as approved by the board;
- (3) supervise the general administration of the department;
- (4) keep the records of the department and preserve all papers and documents of the department;
- (5) recommend persons for appointment as assistants if the board determines there is a need;
- (6) appoint the employees of the department, subject to the approval of the board, according to the standards and qualifications fixed by the board and without regard to political affiliation;
- (7) prepare and present to the board an annual report; and
- (8) perform other duties that the board directs.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-15

Assistant superintendent of parks and recreation; appointment; qualifications; duties

Sec. 15. (a) If the board determines that the size of the department's operation requires assistants for the superintendent, the board may appoint, upon the recommendation of the superintendent, one (1) or more assistants. The board shall determine their qualifications on a basis similar to that prescribed for the superintendent.

(b) Assistants are directly responsible to the superintendent and shall perform the duties specified by the superintendent.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-16

Officers' and employees' bonds and crime policies

Sec. 16. (a) Every officer and employee who handles money in the performance of duties as prescribed by this chapter shall execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the unit may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and, in the case of a municipality, must be approved by the executive.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.201-1988, SEC.1; P.L.49-1995, SEC.12.

IC 36-10-3-17

Advisory council and special committees; composition; selection; duties; reports

Sec. 17. (a) The board may create an advisory council and special committees composed of citizens interested in parks and recreation.

(b) In selecting an advisory council or special committees, the board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an advisory council or a special committee, the board shall specify the terms of its members and the purposes for which it is created.

(c) The advisory council or a special committee shall:

- (1) study the subjects and problems specified by the board and recommend to the board additional problems in need of study;
- (2) advise the board concerning these subjects, particularly as they relate to different areas and groups in the community; and
- (3) upon the invitation of the board, sit with and participate in the deliberations of the board, but without the right to vote.

(d) The advisory council or a special committee shall report only to the board and shall make inquiries and reports only in those areas specified by the board's resolution creating the council or committee.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-18

Gifts, donations, and subsidies; approval; disposition

Sec. 18. (a) The board may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the board may not be made without its approval.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the board for purposes specified by the grantor. The disbursing officer of the unit may draw warrants against the fund only upon vouchers signed by the president and secretary of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.8.

IC 36-10-3-19

Special taxing district for purposes of levying special benefit taxes; determination of revenues necessary for expenditures not covered by issuance of bonds

Sec. 19. (a) The territory within the boundaries of the unit comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the unit shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

- (1) a specific levy to be used exclusively for these purposes;
- (2) a special appropriation; or
- (3) both of these methods.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-20

Special nonreverting capital fund; purposes; withdrawals

Sec. 20. (a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.358-1987, SEC.1.

IC 36-10-3-21

Cumulative building fund; establishment; levy of tax; collection of tax

Sec. 21. (a) The board may establish a cumulative building fund under IC 6-1.1-41 to provide money for:

- (1) building, remodeling, and repair of park and recreation facilities; or
- (2) purchase of land for park and recreation purposes.

In addition to the requirements of IC 6-1.1-41, before a fund may be established, the proposed action must be approved by the fiscal body of the unit.

(b) To provide for the cumulative building fund, the unit's fiscal

body may levy a tax in compliance with IC 6-1.1-41 not to exceed one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of assessed valuation of taxable property within the unit.

(c) The tax shall be collected and held in a special fund known as the unit's park and recreation cumulative building fund.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.93; P.L.358-1987, SEC.2; P.L.17-1995, SEC.42; P.L.6-1997, SEC.231.

IC 36-10-3-22

Fees for particular activities; special funds; deposits; withdrawals

Sec. 22. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit's fiscal body may establish by ordinance, upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(c) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(d) Money procured from fees or received from the sale of surplus property under section 12 of this chapter shall be deposited at least once each month with the fiscal officer of the unit.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.372-1983, SEC.1.

IC 36-10-3-23

Acquisition of real property; resolution; improvements; notice; option or contract; appraisal; hearing

Sec. 23. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the board decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the resolution:

- (1) obtain from the owner or owners of the land an option for its purchase; or
- (2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint two (2) qualified appraisers to appraise the fair market value of the land. Each appraiser must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall return the appraisers' separate appraisals to the board not more than thirty (30) days after the date of their appointment. The appraisals shall be filed with and become a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a price greater than the average of the two (2) appraisals received under subsection (g). The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and is not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.9; P.L.170-2003, SEC.18.

IC 36-10-3-24

Bonds; purpose; denominations; interest exempt from taxation; limitations

Sec. 24. (a) In order to raise money to pay for land to be acquired

for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the board under section 23 of this chapter is confirmed whereby different parcels of land are to be acquired, or more than one (1) contract for work is let by the board at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars (\$1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the board shall certify a copy of the resolution to the unit's fiscal officer. The fiscal officer shall prepare the bonds, and the unit's executive shall execute them, attested by the fiscal officer.

(c) The bonds and the interest on them are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

- (1) the filing of a petition requesting the issuance of bonds;
- (2) the right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the appropriation of the proceeds of the bonds and approval by the department of local government finance; and
- (4) the sale of bonds at public sale for not less than their par value.

(d) The board may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the unit, but constitute an

indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.6-1997, SEC.232; P.L.90-2002, SEC.517; P.L.219-2007, SEC.144; P.L.146-2008, SEC.793.

IC 36-10-3-25

Bonds; notice; hearing; ordinance approving issue

Sec. 25. (a) Before bonds may be issued under section 23 of this chapter, the board shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The board shall have published in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.

(c) After the public hearing and before additional proceedings on the bond issues, the board must obtain an ordinance approving the bond issue from the unit's fiscal body.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.94.

IC 36-10-3-26

Bonds; disposition of proceeds

Sec. 26. All proceeds from the sale of bonds issued under section 24 of this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the park district bond fund.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-27

Levy of special tax on real and personal property; park district bond fund

Sec. 27. (a) In order to raise money to pay all bonds issued under section 24 of this chapter, the board shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as they mature, including accrued interest. The board shall have the tax to be levied each year certified to the auditor of the county in which the district is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the park district bond fund. The tax

shall be applied to the payment of the district bonds and interest as they mature and may not be used for another purpose.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-28

Primary obligation on bond

Sec. 28. If a board or district is discontinued under section 3 of this chapter, the primary obligation on its bonds is not affected, and the unit assumes liability for the payment of the bonds according to their terms.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-29

Joint department of parks and recreation; creation; eligibility; agreement; amendments

Sec. 29. (a) Two (2) or more units may create a joint department of parks and recreation.

(b) Only a unit that has by ordinance created a department under this chapter is eligible to participate in the creation of a joint department.

(c) The boards of the units that desire to create a joint department must agree upon the use of facilities, personnel, the distribution and raising of financial support, and other matters. The agreement may provide:

(1) for a joint district and joint board to supersede the separate districts and boards; or

(2) that the separate districts and boards be maintained.

After agreement has been reached, the fiscal body of each unit must adopt an ordinance approving the terms of the agreement before the agreement becomes final. The ordinances may not be passed under suspension of the rules.

(d) Failure of one (1) of the units to adopt the ordinance within ninety (90) days after the agreement has been reached voids the arrangement for all parties. However, the remaining parties may proceed with a new agreement.

(e) Amendments to an agreement may be made by adoption of an ordinance by the fiscal body of each unit.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-30

Joint board of parks and recreation; organization and function; powers and duties; executive committee, membership, authority, and limitations

Sec. 30. (a) A joint board shall be organized and shall function in the same manner as a separate board. The joint board consists of all the members of the separate boards. Two-thirds (2/3) of the members constitute a quorum, and official action must be authorized by two-thirds (2/3) of the members. The joint board has all of the powers and duties of a separate board under this chapter, including the authority to issue bonds of the joint district.

(b) The joint board may create an executive committee composed of an equal number of members from each participating unit. The executive committee has all of the authority and limitations of the joint board, except that official action by the executive committee must be authorized by each member of the committee. In addition, an executive committee member may demand that an issue be submitted to the joint board.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-31

Joint board of parks and recreation; budget request; disposition of money appropriated

Sec. 31. (a) The joint board shall determine its total budget request. The members of each participating unit shall present to their fiscal body the total budget and shall state the amount chargeable to their unit by the terms of the agreement and ordinance. If their fiscal body does not appropriate an amount sufficient to meet the unit's proportionate share, the joint board may:

- (1) reduce the expenditures attributable to that unit; or
- (2) treat the reduced appropriation as a repudiation of the agreement and terminate the relationship according to section 32 of this chapter.

(b) Money appropriated by the participating units shall be deposited in a joint park and recreation board fund in the custody of the fiscal officer of the participating unit making the largest appropriation to the fund. Money may be withdrawn from the fund only upon vouchers signed by the president and secretary of the joint board.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-32

Joint board of parks and recreation; withdrawal of participating unit; termination; distribution of money remaining in fund; continuation of obligation

Sec. 32. (a) A participating unit may withdraw from a joint department at the end of a fiscal year by repealing its adopting ordinance and filing a copy of the repealing ordinance with the other participating units.

(b) The joint board may by resolution terminate the participation of a unit when the unit does not contribute its proportion of the total budget agreed upon in the original agreement and ordinance. The termination occurs at the end of the fiscal year in which the joint board makes its finding.

(c) At the conclusion of the fiscal year in which a withdrawal or termination occurs, the joint board shall equitably distribute to participating units all money remaining in the fund.

(d) A withdrawal does not alter the obligation of the units and the joint board to continue to levy and collect special benefit taxes to provide debt service on all outstanding bonds of the joint district.

(e) If a unit has appropriated money for payment to a joint board

that has been discontinued, the money shall be placed in the fund of the board of that unit. If the separate board no longer exists, the money shall be deposited in the general fund of the unit.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-33

Extension of service to unincorporated area; request; petition

Sec. 33. (a) A request to a municipality to extend park and recreation service to the unincorporated area of a township in which the municipality is located or in a township adjacent to the township in which the municipality is located may be made by at least the number of registered voters required under IC 3-8-6-3 to place a candidate on the ballot in that area or township and who reside in that area or township, unless the area is already located within another park district.

(b) The request must be made by petition to the board of the municipality and must:

- (1) state the reasons for the need of service;
- (2) specify the unincorporated area or township to be served; and
- (3) include the signatures and addresses of the petitioners.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.12-1995, SEC.132.

IC 36-10-3-34

Extension of service to unincorporated area; public hearing; notice; approval or rejection; joint board

Sec. 34. (a) The board shall fix a date for a public hearing on each petition filed under section 33 of this chapter. The board shall publish in accordance with IC 5-3-1 a notice of the time, place, and purpose of the hearing. The cost of the notice shall be paid by the petitioners.

(b) After the public hearing has been held, the board may by resolution approve the petition and recommend an ordinance accomplishing its objectives to the municipal fiscal body. The secretary or a member of the board shall present the petition and ordinance to the fiscal body at its first meeting after approval of the petition. However, if the board rejects the petition, it may not be presented to the fiscal body.

(c) If the board involved is a joint board, the petition must also be approved by the members from the municipality involved, and then the petition and ordinance shall be presented to the fiscal body of the municipality involved.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.95.

IC 36-10-3-35

Extension of service to unincorporated area; approval of petition and adoption of ordinance; election; notice; ballot; cost and expense of election

Sec. 35. (a) If the fiscal body approves the petition and adopts the

ordinance presented under section 34 of this chapter, the ordinance takes effect.

(b) After the adoption of the ordinance, the fiscal body shall certify the question under IC 3-10-9-3 to the county election board of the county containing the greatest percentage of population of the municipality and fix a date for a special election to be held not later than ninety (90) days after adoption. However, if a primary, general, or municipal election will be conducted in each precinct in the affected area not later than six (6) months after the ordinance is adopted, the special election shall be conducted on the same day as the primary, general, or special election. The election shall be held by the county election board in the area described in the petition. IC 3-10-8-6 applies to the special election. Any voter residing in the affected area may vote in the election.

(c) The county election board shall give public notice of the special election in accordance with IC 3-10-2-2.

(d) The ballot must be in the form prescribed by IC 3-10-9-4 and must state "Shall park and recreation services be extended?".

(e) If the special election is not conducted at a general election, municipal election, or primary election, the fiscal body shall appropriate a sum sufficient to defray the cost of the ballots and to pay the expense of the election as prescribed by IC 3. The appropriation may be from the general fund or by transfer from the operating budget of the department.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.96; P.L.3-1987, SEC.568; P.L.3-1993, SEC.280; P.L.3-1997, SEC.471.

IC 36-10-3-36

Extension of service to unincorporated area; area to become part of district; appointment of member to board; application of chapter

Sec. 36. (a) If a majority of those voting in a special election vote under section 35 of this chapter for the extension of park and recreation services, then at the beginning of the next fiscal year the area becomes part of the district of the department.

(b) At the time the area becomes part of the district, the circuit judge of the county shall appoint a member from the area to the board. The member shall be appointed with the same qualifications and for the same term as other members and has the same powers and duties. If the petition of more than one (1) area is approved, the circuit judge shall make the selection of members so as to maintain the bipartisan character of the board as far as possible. As each additional member is appointed, the quorum of the board is increased by one (1).

(c) The board has the same powers and duties to provide park and recreation service to the area as it has for the municipality, and this chapter applies as fully to the area to which service is extended as it applies to a municipality. However, the board need not provide service to the area before revenues from the area are available.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-37

Extension of service to unincorporated area; property subject to levy; certification of rate; review; issuance of bond

Sec. 37. (a) After a favorable special election under section 35 of this chapter, all property in the area to which service is extended is subject to the same levy for park and recreational purposes as other property within the district. After determining the levy for park and recreational purposes, the fiscal body of the municipality shall certify the rate to be applied to the area in the same manner as all other municipal levies are certified. In reviewing the park and recreation levy, all reviewing authorities shall treat the levy on the district property as a single levy so that the ultimate rate of tax for park and recreation purposes on all property in the district is identical.

(b) The authority of the board to issue bonds under sections 23 through 28 of this chapter includes all property in the area to which service is extended, but bonds may not be issued upon property in the area to which service is extended that do not obligate other property in the district to the same degree. After determining the levy for the park district bond fund, the board shall certify the rate to be applied to the area in the same manner as the rate to be applied to property in the municipality.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-38

Application of section; annexed territory; levy for park and recreational purposes

Sec. 38. (a) This section applies in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) This section applies only if a municipality annexes territory that is part of a district under this chapter.

(c) Any annexed territory that is in the district before the effective date of the annexation ordinance remains a part of the district, and the property in the annexed territory is subject to the same levy for park and recreational purposes as other property within the district. The annexing municipality may not impose an additional levy on the property in the annexed territory for park and recreational purposes.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.56-1988, SEC.15; P.L.12-1992, SEC.190.

IC 36-10-3-39

Application of section; discharge of firearm or shooting of arrow with bow, Class B misdemeanor; hunting, firearm sport, or archery area

Sec. 39. (a) This section applies only to parks within the jurisdiction of a county board.

(b) A person who knowingly discharges a firearm or shoots an arrow with a bow into or inside a park commits a Class B

misdemeanor.

(c) This section does not apply to an area that the board designates as a hunting, firearm sport, or archery area.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-40

Issuance of bonds payable from county innkeeper's tax

Sec. 40. As an alternative to issuing bonds under section 24 of this chapter, the board may issue bonds payable from the county innkeeper's tax. The issuance of the bonds must be initiated by a resolution of the commission established by IC 6-9-7-2, recommending the issuance of the bonds and their purpose. Bonds that are payable from the innkeeper's tax imposed under IC 6-9-7 must be retired before August 1, 1999.

As added by P.L.74-1986, SEC.7. Amended by P.L.85-1993, SEC.5.

IC 36-10-3-41

Approval of bond issuance by county council; reduction of innkeeper's tax rate

Sec. 41. The bonds may not be issued until they have been approved by the county council. After the county council has approved the issuance of the bonds, the county council may not reduce the innkeeper's tax rate below a rate that would produce one and twenty-five hundredths (1.25) times the highest annual debt service on the bonds to their final maturity, based on an average of the immediately preceding three (3) years tax collections, if the tax has been levied for the last preceding three (3) years. If the tax has not been levied for the last preceding three (3) years, the county council may not reduce the rate below a rate which would produce one and twenty-five hundredths (1.25) times the highest debt service, based upon a study by a qualified public accountant or financial advisor.

As added by P.L.74-1986, SEC.8.

IC 36-10-3-42

Hearing; appropriation of proceeds; sale

Sec. 42. (a) The board shall hold a hearing as required by section 25 of this chapter. The board shall appropriate the proceeds of the bonds as required by law for special taxing district bonds.

(b) IC 6-1.1-20-1, IC 6-1.1-20-2, and IC 6-1.1-20-5 apply to the issuance of the bonds.

(c) The bonds may be sold at public sale in accordance with IC 5-1-11 or may be sold at a negotiated sale.

As added by P.L.74-1986, SEC.9. Amended by P.L.25-1995, SEC.92.

IC 36-10-3-43

Certification of debt service schedule; time for retirement of bonds

Sec. 43. After the sale of the bonds the secretary of the board shall certify to the county auditor a debt service schedule for the bonds. The schedule must provide that bonds that are payable from the

innkeeper's tax imposed under IC 6-9-7 are retired before August 1, 1999.

As added by P.L.74-1986, SEC.10. Amended by P.L.85-1993, SEC.6.

IC 36-10-3-44

Lease or contracts for performance of historical pageants and admissions and maintenance of facilities

Sec. 44. The board may enter into a lease or contracts with not-for-profit corporations providing detailed terms and conditions for:

(1) the performance of historical pageants and entertainments;
and

(2) the charging of admissions and maintenance of the facilities.

The contract must not extend for a longer term than the term of the bonds.

As added by P.L.74-1986, SEC.11.

IC 36-10-3-45

Sections not to be repealed during period of outstanding bonds

Sec. 45. The general assembly covenants that it will not repeal or amend:

(1) IC 6-9-7-6;

(2) IC 6-9-7-7;

(3) IC 36-10-3-40;

(4) IC 36-10-3-41;

(5) IC 36-10-3-42; and

(6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.

As added by P.L.74-1986, SEC.12.

IC 36-10-4

Chapter 4. Parks Department in Certain Cities

IC 36-10-4-1

Application of chapter

Sec. 1. (a) This chapter applies to each second class city in which the legislative body has adopted all or part of this chapter by ordinance.

(b) This chapter applies to each third class city in which the legislative body has adopted all or part of this chapter by ordinance.

(c) In addition, in a consolidated city sections 9(a) and 12 through 40 of this chapter apply to the department of parks and recreation and the board of parks and recreation, subject to IC 36-3-4-23.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.10; Acts 1982, P.L.33, SEC.48.

IC 36-10-4-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a board of park commissioners, or board of parks and recreation of a consolidated city.

"Department" refers to a department of public parks, or department of parks and recreation of a consolidated city.

"District" means the area within the jurisdiction of a department.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-3

Department of public parks; establishment; membership; compensation; oath

Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may pay each commissioner an annual salary in an amount fixed by the fiscal body. The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning his duties each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed his oath:

- (1) within thirty (30) days after the beginning of his term; or
- (2) by the date of his appointment if he was appointed after the beginning of the term;

he is considered to have refused to serve and the office becomes vacant.

As added by Acts 1981, P.L.309, SEC.111. Amended by P.L.176-2002, SEC.10.

IC 36-10-4-4

Commissioner; appointment; removal

Sec. 4. (a) By February 1 each year, the executive shall appoint a commissioner to fill the vacancy caused by the expiration of a term. Each commissioner appointed holds office for a term of four (4) years, beginning with January 1 in the year of appointment. If a vacancy occurs on the board, the executive shall appoint a commissioner for the remainder of the term.

(b) A commissioner may not be removed from office except upon charges preferred in writing before the executive, with a hearing held on them. If the executive is bringing the charges, the fiscal body shall appoint a hearing officer. The only permissible reasons for removal are as follows:

- (1) Inefficiency.
- (2) Neglect of duty.
- (3) Malfeasance in office.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.11.

IC 36-10-4-5

Second class city; resolution to extend boundaries; remonstrance; referendum; election; effective date of extension; operation of parks

Sec. 5. (a) In a second class city, the board may adopt a resolution to extend the boundaries of the district to the county boundaries unless the county has already established a park district under IC 36-10-3. The board must file a certified copy of the resolution with the county auditor and county treasurer. Notice of the adoption of the resolution shall be given by publication once each week for two (2) weeks in accordance with IC 5-3-1.

(b) Whenever the board has adopted a resolution under subsection (a), remonstrances may be filed by the affected voters within ninety (90) days after the last publication under subsection (a). Remonstrances must be signed in ink by the voter in person and state the address of each signer and that the signer is a registered voter. A person who signs a remonstrance when the person is not a registered voter commits a Level 6 felony. More than one (1) voter may sign the same remonstrance.

(c) A vote on the public question shall be held if at least the number of the registered voters of the county required under IC 3-8-6-3 to place a candidate on the ballot file remonstrances under subsection (b) with the county clerk protesting the extension of the district.

(d) The county clerk shall certify to the county election board in accordance with IC 3-10-9-3 whether or not the required number of registered voters of the county have filed remonstrances. If sufficient remonstrances have been filed, the county election board shall publish a notice of the election once a week for two (2) consecutive weeks in accordance with IC 5-3-1-4, the first publication to be at least thirty (30) days before the date of the election. The question

presented to the voters at the election shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the county park district be established?". The election is governed by IC 3 whenever not in conflict with this chapter. The county election board shall make a return of the votes cast at the referendum.

(e) If a majority of the votes cast are against the extension of the district, the district is not extended. If sufficient remonstrances are not filed or if a majority of the votes cast support the extension of the district, the district is extended.

(f) The extension of the district is effective on January 1 of the year following the adoption of the resolution or, if an election is held, on January 1 of the year following the date of the election.

(g) A municipality that becomes part of a district by reason of the extension of the district under this section may continue to establish, maintain, and operate parks and other recreational facilities under any other law. The parks and other recreational facilities shall be operated by the municipality separate from the parks and other recreational facilities under the jurisdiction of the board in the same manner as they would be operated by the municipality if it was not within the district.

(h) The operation of separate parks or recreational facilities by a municipality does not affect the obligation of property owners within the municipality to pay all taxes imposed on property within the district.

(i) The legislative body of a municipality may elect that the separate parks or other recreational facilities of the municipality be maintained or operated as a part of the district by adopting a resolution or an ordinance to that effect. The separate park or other recreational facility comes under the jurisdiction of the board at the time specified in the resolution or ordinance.

As added by Acts 1981, P.L.309, SEC.111. Amended by P.L.358-1987, SEC.3; P.L.3-1987, SEC.569; P.L.12-1995, SEC.133; P.L.158-2013, SEC.681.

IC 36-10-4-6

Extended districts in certain counties; board of park commissioners; term; vacancy

Sec. 6. (a) This section applies whenever a district is extended under section 5 of this chapter and such district is not located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) After the district is extended under section 5 of this chapter, the board consists of five (5) commissioners. Two (2) commissioners shall be appointed by the city executive, two (2) commissioners shall be appointed by the county executive of the county in which the city is located, and one (1) commissioner shall be appointed by a majority vote of the presidents of the school boards of the school corporations in the county in which the city is located. The commissioners appointed by the county executive must be residents of the area of the

district outside the corporate boundaries of the city. The commissioners appointed by the county executive may not be members of the same political party, and the commissioners appointed by the city executive may not be members of the same political party.

(c) A commissioner of an extended district may hold office for an unlimited number of terms.

(d) After the initial terms have expired, all of the commissioners after the extension of the district shall be appointed for terms of four (4) years, beginning on January 1. The terms of office of the three (3) commissioners in office at the time of the extension terminate January 1, and the terms of office of the new commissioners begin January 1. The city executive shall appoint one (1) commissioner for an initial term of two (2) years and one (1) for an initial term of four (4) years. The county executive shall appoint two (2) commissioners, one (1) commissioner for an initial term of two (2) years and the other commissioner for an initial term of four (4) years. The presidents of the school boards shall appoint one (1) commissioner for an initial term of four (4) years.

(e) A vacancy in the office of a commissioner shall be filled for the remainder of the term by the appointing authority.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.12; P.L.358-1987, SEC.4; P.L.12-1992, SEC.191; P.L.170-2002, SEC.172; P.L.119-2012, SEC.236.

IC 36-10-4-6.1

Extended districts in other counties; board of park commissioners; term; vacancy

Sec. 6.1. (a) This section applies whenever a district is extended under section 5 of this chapter and such district is located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) After the district is extended under section 5 of this chapter, the board consists of five (5) commissioners. Three (3) commissioners shall be appointed by the city executive, and two (2) commissioners shall be appointed by the county executive of the county in which the city is located. The commissioners appointed by the county executive must be residents of the areas of the district outside the corporate boundaries of the city. No more than two (2) of the three (3) commissioners appointed by the city executive may be members of the same political party, and the commissioners appointed by the county executive may not be members of the same political party.

(c) A commissioner of an extended district may hold office for an unlimited number of terms.

(d) All commissioners after the extension of the district shall be appointed for terms of four (4) years, beginning on January 1. The three (3) commissioners whose terms of office have not expired continue in office and are considered appointees of the city executive until the expiration of the four (4) year terms for which they each

were originally appointed. The county executive shall appoint two (2) commissioners, one for a term of two (2) years and the other for a term of four (4) years. As the term of each commissioner expires, a new commissioner shall be appointed for a term of four (4) years so that at all times the board consists of three (3) commissioners appointed by the city executive and two (2) commissioners appointed by the county executive.

(e) A vacancy in the office of a commissioner shall be filled for the remainder of the term by the appointing authority.

As added by P.L.358-1987, SEC.5. Amended by P.L.12-1992, SEC.192; P.L.170-2002, SEC.173; P.L.119-2012, SEC.237.

IC 36-10-4-7

Board of park commissioners; election of officers; quorum; regular meetings; office; report; disposition of money received

Sec. 7. (a) The board shall elect at its first regular meeting in February each year one (1) of the commissioners president and another vice president. The vice president shall perform the duties of the president during the absence or disability of the president.

(b) A majority of the commissioners constitutes a quorum. Action of the board is not binding unless authorized by a majority of the commissioners at a regular or duly called special meeting of the board. If there is a tie vote on any question, the city executive shall cast the deciding vote.

(c) The board shall fix a time for holding regular meetings. Special meetings of the board may be called at any time by its president, or by any two (2) of the commissioners, upon a written request to the secretary. If a special meeting is called, the secretary shall notify the commissioners by mailing written notices of the time of the meeting at least one (1) day before the meeting. All meetings are open to the public.

(d) The proper authorities of the city shall provide a suitable office for the board where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

(e) By February 1 of each year the board shall make a report to the city executive of:

- (1) its proceedings, including a full statement of its receipts and disbursements for the preceding calendar year;
- (2) the acquisition of lands by the board;
- (3) improvements made by the board; and
- (4) general character of the work of the board during the preceding year.

(f) Money received by the board shall immediately be paid into the city treasury and credited to the department. All expenditures relating to the parks, parkways, public grounds, public ways, and other places of the city under the control of the department shall be provided for by a special levy of taxes. The money shall be paid from the city treasury when ordered by the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-8

Taxing district for levying special benefit taxes

Sec. 8. All of the area:

- (1) within the corporate boundaries of a city; and
- (2) in unincorporated areas of the county to which the district has been extended;

constitutes a taxing district for levying special benefit taxes for park purposes as provided in this chapter. Area added to the district under section 5 of this chapter is considered to have received a special benefit from the park facilities of the district equal to or greater than the special taxes imposed on the area by this chapter in order to pay all or a part of the cost of the facilities.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-9

Control of property within district; public ways passing through park property; powers of board

Sec. 9. (a) The board has, subject to statute and to the right given by section 5 of this chapter to other municipalities within the district to operate separate parks and recreational facilities, exclusive control of all property within the district used for park purposes.

(b) In addition, the part of all public ways that pass through park property is considered to be a part of this property and is also under the control of the board.

(c) The board may do the following:

- (1) Acquire, lay out, and improve land for park purposes in the district and may equip, operate, maintain, and regulate the public use of that property.
- (2) Appoint a secretary, and, in his absence a secretary pro tempore, landscape architects, engineers, surveyors, attorneys, clerks, guards, laborers, playground directors, and other employees, prescribe their duties and authority, and fix their compensation. If a superintendent of the department is appointed, he shall be appointed under IC 36-4-9-2.
- (3) Make rules not in conflict with statutes or the ordinances of the city for the management of the property under its control.
- (4) Require the department of public safety of the city to detail police officers to execute the orders and enforce the rules made by the board and to be subject to the board, with the city executive deciding any disagreement between the two (2) departments as to the number and duration of the details of police officers.
- (5) Locate, erect, and maintain fountains in parks, as well as in the public ways that form the boundaries of parks, or intersect with them.
- (6) Erect and maintain suitable fences around parks.
- (7) Seize and impound animals found running at large in any of the parks, including establishing suitable places for the impounding.
- (8) Lease or sell any buildings, grounds, materials, equipment,

or any parts of them owned by the city that are under the control of the department and that the board determines are not required for park purposes, permitting any other department of the city or the school city to occupy or use the property upon terms that are approved by the executive. All sums realized from the lease, sale, or other disposition of property shall be deposited in the city treasury to the credit of the department and expended for park purposes. All buildings and structures erected upon land under the control of the board are under the control of the board, and the board may not permit the erection of any building or structure upon land unless it becomes the property of the city. A lease or sale of minerals, mineral rights, or royalties for minerals for more than one (1) year from land owned by a second class city or a lease for more than one (1) year in a city that adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981) may be made only to the highest and best bidder after notice of the sale or lease has been given by publication in accordance with IC 5-3-1.

(d) The board may also do the following:

(1) Vacate public ways, or parts of them, on land under the control of the board in the same manner as the city works board may vacate them.

(2) Take over and control public ways, or parts of them, within the city and convert them into boulevards or pleasure driveways if they connect with or run into or through a park, parkway, or boulevard or are necessary for the establishment of a park or boulevard system in the city, including grading, improving, and beautifying them and relinquishing to other departments of the city the control of a public way or parkway in streets taken over that are not necessary or desirable for maintenance as part of the park system of the city.

(3) Petition the proper board of the city to construct any necessary drainage or sanitary sewers and connections in a public way or parkway bordering park property and require a public service corporation to lay, install, and connect water and gas mains and electric light conduits in and along a boulevard or park drive when reasonably necessary.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.97; Acts 1981, P.L.320, SEC.13; P.L.3-1990, SEC.139.

IC 36-10-4-10

Powers of board extended five miles outside corporate city boundaries

Sec. 10. In a city that adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981), the powers granted the board by section 9(a) extend five (5) miles outside the corporate boundaries of the city.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.14; P.L.3-1990, SEC.140.

IC 36-10-4-11

Shade trees and lawns along public ways; resolution assessing cost; hearing; assessments; playgrounds; public school grounds or buildings

Sec. 11. (a) The board has exclusive control over the planting, trimming, and maintenance of shade trees along the public ways of the city. The board may:

- (1) take over and control the improvement, maintenance, and embellishment of all lawns and street centers in and along the public ways of the city; or
- (2) compel the owners of lots and parcels of land bordering on the public ways to plant, trim, protect, and maintain shade trees and to sod, plant, and maintain lawns and centers after first adopting a resolution showing the public necessity and assessing the cost against the abutting lots and parcels of land.

(b) After adopting a resolution under subsection (a), the board shall give notice and provide a hearing, with right of remonstrance, in the same manner as is provided for street and sidewalk improvements by the works board of the city. However, instead of letting a contract to the highest and best bidder, the board may carry out the improvement with its own employees and charge the actual cost in the same manner as if a contract was let. The cost may include a reasonable guaranty, but may not, however, exceed the estimate to be made and placed on file at the time of the adoption of the resolution.

(c) All assessments levied for the improvements are payable in one (1) payment, without notice, at the next regular taxpaying time after the completion of the improvement. The assessments are liens against the separate lots and parcels of land abutting the improvement. If they are not paid when due, they may be enforced by foreclosure, after giving notice, in the same manner as assessments for street and sidewalk improvements.

(d) The board has exclusive control over the establishment and maintenance of public playgrounds, public playfields, public swimming pools, public baths, community centers, and recreation centers in the city. The board shall select directors, assistants, and employees to manage and control the facilities and shall prescribe their duties and fix their compensation. The board may expend the sums from the general park fund for recreation purposes that it considers advantageous to the city.

(e) The governing body of the school corporation of the city may permit the use of public school grounds or buildings under its control that are required or adaptable for recreation purposes when that use will not interfere with use for school purposes.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-12

Open spaces for park, recreational, or civic purposes

Sec. 12. The board may develop open spaces for park, recreational, or civic purposes in cities where areas have become

blighted or require redevelopment for the public welfare in cooperation with the redevelopment commission and the plan commission for the city, providing out of park funds, by bond issue, from other available funds, or by the receipt of grants or donations for such purposes the money necessary for the redevelopment commission to acquire the areas for the department and paying the money to the redevelopment commission for the project.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-13

Law governing adoption of plans, giving of notice, and receiving of bids in letting of contract

Sec. 13. The board is subject to IC 36-1-12 governing similar action by the works board when adopting plans, giving notice, and receiving bids in the letting of a contract for public improvements or repairs.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.57, SEC.43.

IC 36-10-4-14

Actions to recover damages for breach of agreement, penalties for violation of ordinance, damages for injury to property, and possession of property

Sec. 14. The board may bring an action in the name of the city to recover:

- (1) damages for the breach of an agreement, expressed or implied, relating to or growing out of the establishment, management, or improvement of the parks, public ways, and other property used for park purposes under its control;
- (2) penalties for the violation of an ordinance;
- (3) damages for injury to the personal or real property relating to the parks, public ways, and other property used for park purposes; or
- (4) possession of property.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-15

Publication of rules adopted by board

Sec. 15. All rules that the board adopts under this chapter shall be published in accordance with IC 5-3-1.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.98.

IC 36-10-4-16

Taxes; disbursements; borrowing; general park fund; special funds; fees; deposits; withdrawals

Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate, shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are

collected, and the city fiscal officer shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes during the preceding month. At the date of notification, the city fiscal officer shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

- (1) taxes;
- (2) the sale of privileges in the parks of the city;
- (3) the sale of bonds of the city for park purposes; and
- (4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

- (1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or
- (2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus

property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.15; P.L.372-1983, SEC.2; P.L.173-2003, SEC.40.

IC 36-10-4-17

Granting of public utility franchise

Sec. 17. A franchise may not be granted by the city for the construction or maintenance of railways or telephone, telegraph, pipe, or conduit lines upon, across, over, or through a park, parkway, park boulevard, boulevard, or driveway under the control of the board without the consent of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-18

Ordinance authorizing sale of park lands; disposition of proceeds

Sec. 18. If a board decides to sell a part of the park lands owned by the city, it shall prepare an ordinance authorizing the sale and submit it to the city legislative body. If the legislative body passes the ordinance, the land shall be sold as other land of the city is sold and the proceeds of the sale credited to the department. The proceeds shall be expended for the improvement of the remaining park land or for the purchase of other land for park purposes, as the board considers best for the city.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-19

Building lines; establishment by resolution; nature of rights in land between building line and park property; procedure; regulation of use of property; conflict of interest

Sec. 19. (a) The board may, by resolution, establish a building line determining the distance at which all structures erected upon any premises fronting a park, parkway, or boulevard may be erected. Upon the adoption of the resolution, the board shall acquire, in the name of the city, by donation, condemnation, or purchase, the land between the building line and the park, parkway, or boulevard, or an interest in the land that will secure to the board the right to prevent the erection of or to require the removal of all structures outside of the line, or both. After the adoption of the resolution, a permit may not be issued by a department or officer of the city authorizing the erection of a structure outside of the established line unless approved

by the board.

(b) The establishment of a building line outside of a park, parkway, or boulevard in connection with the donation, condemnation, or purchase of land or an interest in it is a perpetual annihilation of all rights of the owners of property over and across which the building line runs to erect a structure or a part of one between the building line and the park, parkway, or boulevard. However, the perpetual and irrevocable free license to use and occupy the land between a building line and the park property is reserved to the property owner for purposes other than the erection of structures.

(c) If the board decides to establish a building line, the board has the same powers and shall proceed in the same manner in the condemnation, assessment, and collection of benefits, awards of damages, remonstrances, hearings, appeals, rehearings, and other matters as it does in the acquisition of real property. Benefits may not be assessed against property other than that abutting on the park, parkway, or boulevard along which the building line is established and within the limits of the building line. However, the total amount of benefits assessed against lots and parcels of land fronting on the park, parkway, or boulevard and located within the limits of the building line must equal the total cost of the establishment of the building line.

(d) A subdivision of lots or parcels of land lying within five hundred (500) feet of park, parkway, or boulevard may not be accepted for record and is not valid without the approval of the board. If the board considers it necessary, in order to promote public health, safety, morals, or general welfare, the board may, by general order or resolution, regulate:

(1) horse racing; and

(2) the location of trades, industries, commercial enterprises, buildings, or devices designed for uses that, in the order or resolution, are specified as injurious to the public health, safety, morals, or general welfare;

within five hundred (500) feet of a park, parkway, or boulevard. The right to regulate the use of this property for these purposes is considered to be included in a gift, donation, acquisition, or condemnation under this chapter. However, a lawful business being conducted upon adjacent property when jurisdiction is acquired over the property may not be prohibited or abated without a fair valuation and due compensation.

(e) Commissioners, and clerks, assistants, appointees, or employees of the board may not hold an interest, either directly or indirectly, in any kind of enterprise conducted for profit within one thousand (1,000) feet of a park, parkway, or boulevard under the jurisdiction of the board. The possession or ownership of an interest operates to vacate the officer or position held by the person and makes him ineligible to hold an office or position under the board while the interest is, either directly or indirectly, possessed or retained by him.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-20

Acquisition of property for various purposes; holding property in trust; establishment of museums; contracts for management and maintenance of facilities

Sec. 20. (a) Real and personal property may be granted, devised, leased, bequeathed, or conveyed to a city for park purposes or for the establishment, improvement, maintenance, or ornamentation of a park, playground, boulevard, pleasureway, parkway, wheelway, garden for horticulture and floriculture, museum, zoological garden, collection of natural history, observatory, library, fountain, monument, work of art, art gallery, or other public ground.

(b) The city may take and hold the property in trust or upon conditions that are approved by the board. The property and the rents, issues, and profits from it are subject to the exclusive control of the board.

(c) The board shall also provide accommodations and take the steps that the money at its disposal will justify for securing and preserving collections of natural history and the establishment of museums in the parks of the city.

(d) The property may be improved, added to, and changed at the board's discretion and shall be protected, preserved, and arranged by the board for the public use and enjoyment under the rules that the board prescribes.

(e) The public may use and enjoy the facilities, although the board may impose an admission charge for entrance into the gardens, museums, and other collections.

(f) The board may also contract for the management and maintenance of gardens, museums, art galleries, or other institutions with a society incorporated under statute, as long as the public has the right to use and enjoy the facilities. The board may also impose an admission charge for entrance into these facilities, which remain subject to the control of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-21

Eminent domain; damages; prior public use

Sec. 21. (a) The board may exercise the power of eminent domain:

- (1) within the corporate boundaries of the city; and
- (2) outside of the city within ten (10) miles, or five (5) miles if the city adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981), of the corporate boundaries of the city and within the county in which the city is located;

for the purposes of this chapter. The board may award damages to landowners for real property and property rights appropriated or injuriously affected and assess benefits to property beneficially affected. If the board cannot agree with the owners, lessees, or occupants of any real property selected by the board for the purposes

of this chapter, the board may condemn the property as provided in this chapter, and, when not inconsistent with this chapter, may proceed under statutes governing the condemnation of land and rights-of-way for other public purposes.

(b) If the land or surface of the ground on, over, or across which it is necessary or advisable to establish, construct, or improve a boulevard, parkway, or pleasure driveway is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute and is being used for that purpose by the entity appropriating it, the public use or prior condemnation does not bar the board from condemning the use of the ground for park purposes. However, the use by the board does not permanently prevent the use of the land or the surface of the ground for the prior public use or by the entity condemning or appropriating it. In a proceeding prosecuted by the board to condemn the use of land or the surface of the ground for purposes permitted by this chapter, the board must show that its proposed use will not permanently or seriously interfere with the continued use of the land or the surface of the ground.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.16; P.L.3-1990, SEC.141.

IC 36-10-4-22

Authority concerning rivers, streams, and waterways

Sec. 22. (a) This section applies only to the parts of rivers, streams, and waterways that are within or bordering park land and boulevards under the control of the board.

(b) The board may:

- (1) keep open rivers, streams, and waterways and prevent the deposit of unsightly or obnoxious materials in or along them;
- (2) take over, improve, control, and provide for the protection of the banks of rivers, streams, and waterways, including building levees and taking over levees already built;
- (3) control the flow of water;
- (4) make rules and regulations concerning rivers, streams, and waterways and their banks as is necessary for these purposes;
- (5) dam or change the course of a river, stream, or waterway to provide water for sprinkling, boating, or other purposes;
- (6) provide pools or artificial lakes in parks; and
- (7) construct bridges and viaducts over or tunnels under rivers, watercourses, or railroads.

(c) The board may also require the owners of real property abutting along and upon rivers, streams, and waterways to remove unsightly or obnoxious materials, filth, and unhealthy and unsanitary substances in or along them. Five (5) days' written notice shall be given to the owners that states the materials, filth, or substances to be removed. If a property owner fails to comply with the notice the board may remove the materials, filth, or substances. The expense of removal shall be certified by the board to the county treasurer and shall be collected by the treasurer in the same manner as assessments

by the board for the improvement of boulevards are collected under this chapter and other statutes, including the sale of the property by the treasurer to pay delinquent expenses.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-23

Improvement of parkway, pleasure driveway, or boulevard; orders; assessment of costs; remonstrance; changing and fixing grade

Sec. 23. (a) The board may, in a proceeding separate from the acquisition of land by purchase or appropriation, order the improvement of a parkway, pleasure driveway, or boulevard, or part of any of these, under the control of the board by surface grading, paving, curbing, or constructing sidewalks in the same manner as the works board of the city may improve a public way or sidewalk within the city. The powers, rights, and duties of the board in carrying out this work are the same as the powers, rights, and duties of the works board in the performance of similar work under general procedures. In addition, the board may determine the kind of pavement to be used. The powers, rights, and duties of the persons to be assessed are the same as those provided under general procedures for doing similar work by the works board, with the cost of improvements assessed to the same extent as property is assessed.

(b) When costs are assessed, they become a lien upon the property to the same extent, are enforceable in the same manner, and have the same rights to payment by installments and appeal as are provided for street and sidewalk improvements ordered by the works board.

(c) If a majority of the resident freeholders affected by the proposed improvement remonstrate in writing against the improvement, the board may, after giving ten (10) days' notice to the remonstrators, petition the circuit court to specifically order the improvement. If at the hearing on the petition the board establishes the public necessity of the proposed improvement and demonstrates that the benefits will equal the assessments against the separate lots or parcels of land, the order shall be made.

(d) If land along one (1) side of a parkway, pleasure driveway, or boulevard is owned by the city or used by it for park purposes, one-half (1/2) of the cost of the improvements under this section, as well as any part of the other one-half (1/2) of the cost of the improvements that cannot be met by special assessments against abutting property, is considered to be benefits accruing to all of the property, real and personal, not exempt from taxation under this chapter and located within the boundaries of the district. The cost shall be paid out of the proceeds of the bonds of the taxing district that are issued and sold for those purposes. Payment shall be made as provided in sections 35 and 37 of this chapter.

(e) The board may provide for the rough grading of a parkway, pleasure driveway, or boulevard at the same time as the acquisition of the property or after the property, or a necessary part of it, has already been secured under section 21 of this chapter.

(f) The board may change and fix the grade of a boulevard, park boulevard, public driveway, or public ground under its control to the same extent as the works board of the city may change and fix the grade of a public way or public place within the city.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-24

Appropriation of property; purposes

Sec. 24. The board may appropriate property for:

- (1) establishing a park, parkway, pleasure driveway, or boulevard;
- (2) widening or extending a park, parkway, pleasure driveway, or boulevard;
- (3) opening, widening, or extending a route or right-of-way for a sewer or channel of a watercourse connected with or necessary for the protection of a park, parkway, pleasure driveway, or boulevard;
- (4) constructing an embankment or levee along a watercourse for the protection of a park, parkway, pleasure driveway, or boulevard;
- (5) constructing a bridge or viaduct upon or connected with a park, parkway, pleasure driveway, or boulevard; or
- (6) converting a public way connecting a park, parkway, or boulevard in the city into a boulevard or pleasure driveway.

The board may also, in the same proceeding, provide for the construction of improvements to the property for the purposes for which the property is appropriated. In addition, the board may provide for the construction of any of the improvements when the property or a part of it has been secured by contract or other means.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-25

Resolution to acquire property; adoption; contents; notice of adoption; appraisal; title; hearing; remonstrance, final action

Sec. 25. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If a board decides to:

- (1) acquire land for any of the purposes of this chapter, either by purchase or appropriation, and to proceed with an improvement authorized by this chapter, other than surface grading and paving under section 23 of this chapter; or
- (2) acquire property without proceeding at that time with an improvement; or
- (3) proceed with an improvement when the property has been already secured by purchase or otherwise;

it shall adopt a resolution under subsection (c).

(c) The resolution must:

- (1) declare the purpose;

(2) describe the land to be acquired, the manner of acquisition, and, in case of appropriation, other land that may be injuriously affected; or describe the land already acquired and intended to be used for the proposed improvement; and

(3) if the improvement is provided for in the resolution, require that preliminary plans and specifications and an estimate of the cost of the proposed improvement be prepared by the engineer selected to do the work.

The resolution must be open to inspection by all persons interested in or affected by the appropriation of the land or the construction of the work.

(d) Upon the adoption of the resolution, the board shall have notice of the adoption and content of it published in accordance with IC 5-3-1. The notice must name a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and determine the public utility and benefit of the proposed project.

(e) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered to be notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(f) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by metes and bounds. It does not matter if the property is composed of one (1) or more lots or parcels or owned by one (1) or more persons.

(g) If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost. The board may, at any time before the adoption of the resolution:

(1) obtain from the owner or owners of the land an option for its purchase; or

(2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land shall be paid for only out of the special fund resulting from the sale of district bonds and from local assessments, as provided in this chapter.

(h) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint three (3) qualified appraisers to appraise the land. The appraisers may not be interested, directly or indirectly, in any land to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. They shall then immediately view the

land and determine the true market value of it at that time. They shall report the appraisal in writing, which shall be filed with and becomes a part of the record of the proceeding. The board may not take an option on the land or enter into a contract to purchase it at a higher price than the value named in the report.

(i) The title to any land to be acquired under the resolution, whether by purchase or appropriation, does not vest in the city until it is paid for out of the special fund created by the sale of bonds and from local assessments of special benefits as provided in this chapter. Any indebtedness or obligation incurred by the board due to the acquisition of land or to construction of a work shall be paid out of the funds under the control of the board and is not an indebtedness or obligation of the city.

(j) At or before the time fixed for the hearing, an owner of land to be appropriated or injuriously affected under the resolution, or a person owning real or personal property located within the corporate boundaries of the city, may file a written remonstrance with the secretary of the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering this evidence, the board shall take final action determining the public utility and benefit of the proposed project by either confirming, modifying, or rescinding the resolution. The action shall be recorded and is final and conclusive upon all persons.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.17.

IC 36-10-4-26

Letting of contract for construction; bidder's deposit; payment; limitation of cost; validity of contract

Sec. 26. (a) If the board orders acquisition and construction and has advertised for bids for the construction after final adoption of the resolution, it shall require each bidder to deposit with his bid a certified check for an amount not less than two and one-half percent (2 1/2%) of the engineer's estimate of the cost of the improvement to insure the execution of the contract for which the bid is made.

(b) The contract must state that payments for all work under the contract shall be made only from the special fund derived from the proceeds of bonds and special assessments. A contract may not be let for a higher amount than the estimated cost of the work, and the board may let parts of the proposed work under different contracts. The board may, at any time before the execution of a contract for the work, rescind any acts or orders in relation to the proposed work or take the supplementary proceedings that the board considers necessary.

(c) The validity of a contract may not be subsequently questioned by any person except in an action to enjoin the performance of the contract instituted within fifteen (15) days after the execution of the contract. After that fifteen (15) day period, all proceedings and orders of the board preliminary to the contract are valid, conclusive, and

binding upon all persons and are not subject to attack. The amount of the benefits resulting to all property in the city and the special tax shall be levied only for the balance.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-27

Properties subject to special tax; lands subject to special assessment for benefits; determination of benefits to all property in city

Sec. 27. (a) After final action of the board confirming the resolution in its original form, all property located within the corporate boundaries of the city is subject to a special tax to provide money to pay the total cost of acquiring land, of an improvement, or of both, including all necessary incidental expenses. The special tax constitutes the amount of benefits resulting to the property from the proceedings and shall be levied as provided in this chapter.

(b) If the board determines that any lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet of either side of property to be acquired for a work of construction will incur a particular benefit because of proximity to the property to be acquired or the work of construction, the lots and parcels of land are subject to a special assessment for benefits in addition to the benefits received by them in common with all other property located in the city. The special assessment shall be determined in accordance with this chapter, but the total amount of the additional benefits assessed may not exceed twenty-five percent (25%) of the total cost of acquiring land, of the improvement, or of both.

(c) The total amount of additional benefits assessed and finally confirmed or adjudged against lots and parcels of land, exclusive of improvements, lying within two thousand (2,000) feet shall be deducted from the total cost of acquiring new park land, of the improvement, or of both. The balance of the total cost constitutes the amount of the benefits resulting to all property in the city, with the special tax levied only for the balance.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-28

Lists of property sought to be taken, certain property incurring particular benefit, and persons affected injuriously or beneficially

Sec. 28. (a) When the resolution has been finally confirmed by the board, the board shall have prepared a list of all the owners or holders or property sought to be taken or that will be injuriously affected either by the appropriation of the land or the improvement. The board shall also have prepared a list of all of the owners or holders of lots or parcels of land lying within two thousand (2,000) feet on either side of the land to be acquired for park or boulevard purposes, for an improvement, or for both that will incur a particular benefit as provided in section 27 of this chapter by the acquisition, location, establishment, construction, or improvement of a park, playground, parkway, pleasure driveway, boulevard, improvement, or structure provided in the resolution.

(b) In addition to the names, the list must show with reasonable certainty a description of the property belonging to each person that will be appropriated or affected either injuriously or beneficially. A greater certainty in names and description is not necessary for the validity of an award or assessment than is required in the assessment of taxes.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-29

Exempt personal and real property; exception

Sec. 29. All real and personal property that is exempt from taxes by statute is exempt from all taxes and assessments under this chapter, except assessments against abutting property for improvements constructed by the board under section 23 of this chapter.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-30

Awards; determination; notice describing location of land appropriated or acquired

Sec. 30. (a) After completion of the list, the board shall proceed to determine and award:

- (1) the amount of damages sustained by the owners of the parcels of land required to be appropriated, if any, as provided in the resolution or that will be injuriously affected; and
- (2) the amount of particular benefits that will accrue to the lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the property to be acquired, of the improvement, or of both because of proximity to the land to be acquired and the establishment or construction of a project for park purposes as provided in the resolution and in addition to the benefits received by the lots or parcels of land in common with all property located in the city.

However, the total amount of benefits assessed against the lots and parcels of land, exclusive of improvements, located within two thousand (2,000) feet may not exceed twenty-five percent (25%) of the total cost of land acquisition or of the improvement.

(b) When the list has been completed, the board shall have published in accordance with IC 5-3-1 a notice describing the location of the land appropriated or acquired by the purchase or the land on which the improvement is to be made. The notice must also state:

- (1) the general character of the improvement;
- (2) what assessments have been made against land within two thousand (2,000) feet of park property; and
- (3) that the assessment list, with the names of the owners to whom damages have been awarded and against whom assessments have been made, a description of property affected, and the amounts of preliminary awards or assessments for each parcel of property affected is on file and can be seen in the

board's office.

(c) In addition, the board shall have a written notice served upon the owner of each parcel of land taken or injuriously affected, by leaving a copy at his last and usual place of residence in the city or by delivering a copy to the owner personally. The notice must show separately each item of the determination regarding property owned by him.

(d) The board shall also have mailed a notice to the residence, if known, of persons owning land or parts of land against which special assessments have been made, showing each item of the determination as it affects those persons. If a person is a nonresident or his residence is not known, then he is considered to have been notified by the publication. The notice must name a day, not earlier than ten (10) days after service of the notice, the last day of publication, or the date of mailing, on which the board will receive and hear remonstrances from persons regarding the amount of their respective awards or assessments. Persons not included in the lists, assessments, or awards who claim to be entitled to an assessment or award are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board and by the publication as provided in this section.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.99.

IC 36-10-4-31

Notice to mentally incompetent persons or minors; defects or irregularities in proceedings

Sec. 31. (a) If a person having an interest in land affected by the proceedings is mentally incompetent or under eighteen (18) years of age, the board shall certify this fact to its attorney. The attorney shall then apply to the court and secure the appointment of a guardian for the person. The board shall give notice to the guardian, who shall appear and protect the interest of the protected person. However, if the protected person already has a guardian, the notice may be served upon that guardian. The requisites of notice to the guardian are the same as for other notices.

(b) If there are defects or irregularities of any kind in the proceedings with respect to one (1) or more interested persons, they do not affect the proceedings as to any other person. In case of a defect, supplementary proceedings of the same general character as those already prescribed may be had in order to cure it.

As added by Acts 1981, P.L.309, SEC.111. Amended by P.L.33-1989, SEC.129.

IC 36-10-4-32

Remonstrance against award or assessment; hearing; decision; appeal; procedure; costs

Sec. 32. (a) A person notified or considered to be notified under the preceding sections of this chapter may remonstrate in writing against an award or assessment and appear before the board on the

day fixed for hearing remonstrances. Every person appearing before the board having an interest in the proceedings shall be given a hearing. After the remonstrances have been received and the hearings held, the board shall either sustain, increase, or decrease the awards or assessments.

(b) A person remonstrating in writing who is aggrieved by the decision of the board may take an appeal to the circuit or superior court in the county in which the city is located. The appeal affects only the amount of the assessment or award of the person appealing.

(c) The appeal may be taken by filing an original complaint in court against the board within ten (10) days after the board's decision. The complaint must set forth the action of the board regarding the assessment or award and the facts relied upon as showing an error of the board. The court, or if requested by a property owner or the board, a jury, shall rehear the matter of the assessment or award de novo and either confirm, decrease, or increase the amount. The cause shall be tried as a civil case. All remonstrances upon which an appeal is taken may be consolidated and heard as one (1) cause of action and shall be heard and determined as soon as practical.

(d) If the amount of benefits assessed against the property is decreased by ten percent (10%) or more, or if the amount of damages is increased by ten percent (10%) or more, the plaintiff is entitled to recover costs.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-33

The local assessment duplicate; collection by county treasurer; payment date; foreclosure; installment payments; law governing; assessment bonds; expense of notices

Sec. 33. (a) Upon completion of the assessment roll by the board, the board shall immediately prepare a duplicate of the assessment roll of benefits, to be known as "The Local Assessment Duplicate", and deliver it, duly certified, to the county treasurer. The amounts of benefits assessed are then liens superior to all other liens, except taxes, against the respective lots or parcels of land upon which they are assessed. The duties of the treasurer are the same as are prescribed by law for the collection of assessments for street improvements.

(b) The assessments of benefits are due and payable to the treasurer from the time of the delivery of the assessment duplicate to the treasurer. If the assessments are not paid within sixty (60) days after delivery, the board, through its attorney, shall proceed to foreclose the liens in a court of competent jurisdiction as mortgages are foreclosed, with similar rights of redemption and the right to sell the property to pay the assessments. The board may recover costs, reasonable attorney's fees, and interest from the expiration of the sixty (60) day period at the rate of six percent (6%) per year. If the person against whom the assessment is made is a resident of the city, demand shall be made by delivery to him personally or mailing to his last and usual place of residence a notice of the assessment and

demand for payment.

(c) A person assessed for special and local benefits may, within thirty (30) days after confirmation of the assessments, decide to pay the assessment in installments in the same manner as provided for the payment of assessments for the improvement or paving of streets in the city.

(d) Statutes concerning the payment of street improvement assessments by installments, the issuance of bonds and coupons to anticipate assessments, and the rights of bondholders and landholders apply to assessments made under this chapter when consistent with this chapter. If assessment bonds are issued, they shall promptly be sold by the board in the same manner as park district bonds are authorized to be sold under section 35 of this chapter. Assessment bonds are exempt from taxation for all purposes. The expense of all notices with respect to assessments and delinquencies shall be paid by the board and all interest on delinquencies shall be deposited into the general fund of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-34

Damage awards; certificates; payment; disputes as to claimants

Sec. 34. (a) The board shall, upon completion of a damage award or upon the determination of an appeal, make out certificates for the proper amounts and in favor of the proper persons. When a person presents a certificate to the city fiscal officer, the person is entitled to a warrant on the city treasury. The warrant shall be countersigned by the president or vice president and the secretary of the board.

(b) The city shall pay the persons the amounts due them as shown by the certificates. The certificates or vouchers shall, whenever practical, be actually tendered to the person entitled to them, but if this is impractical they shall be kept for the persons in the office of the board. The making and filing of the certificates is a valid effectual tender to the person entitled to them when there is sufficient money to pay them. The certificates shall be delivered to the person on request.

(c) If a dispute or doubt arises as to which person shall be paid the money, the board shall make out the certificate in favor of the attorney appointed by the board for the use of the person entitled to it. The attorney shall then draw the money and pay it into court in a proper proceeding, requiring the various claimants to interplead and have their respective rights determined. If an injunction is obtained because damages have not been paid or tendered, the board shall tender the amount of them, with interest from the time of the entry of the property, if entry has been made, and all accrued costs. The injunction shall then be disposed of, if there is sufficient money to pay the certificate. The pendency of an appeal to the circuit or superior court of a county does not affect the validity of a tender made under this section, but the board is entitled to proceed with its appropriation of the property in question.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-35

Bonds; issuance; purpose; deduction of benefits from cost; inclusion of estimated costs in one bond issue; denomination; issuance and sale procedure

Sec. 35. (a) In order to pay for:

- (1) land to be acquired for any of the purposes of this chapter;
- (2) an improvement authorized by this chapter; or
- (3) both;

the board shall issue the bonds of the district in the name of the city in anticipation of the special benefits tax to be levied under this chapter. The amount of the bonds may not exceed the estimated cost of all land to be acquired and the estimated cost of all improvements provided in the resolution, including all expenses necessarily incurred in the proceedings and a sum sufficient to pay the estimated costs of supervision and inspection during the period of construction. Expenses include all expenses actually incurred preliminary to acquisition of the land and the construction work, such as the estimated cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other expenses necessary to letting the contract and selling the bonds.

(b) The total amount of any benefits that have been assessed by the board and confirmed against lots and parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the land to be acquired or of the improvement, however, shall be deducted from the estimated cost.

(c) If more than one (1) resolution or proceeding of the board under section 25 of this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the board at approximately the same time, the estimated cost involved under all of the resolutions and proceedings may be contained in one (1) issue of bonds.

(d) The bonds shall be issued in any denomination up to five thousand dollars (\$5,000) each. The bonds are negotiable instruments and bear interest at a rate established by the board and approved by the city legislative body.

(e) After adopting a resolution ordering the bonds, the board shall certify a copy of the resolution to the fiscal officer of the city. The fiscal officer shall then prepare the bonds, which shall be executed by the city executive and attested by the fiscal officer. The bonds are exempt from taxation for all purposes and are subject to IC 6-1.1-20 concerning:

- (1) the filing of a petition requesting the issuance of bonds; and
- (2) the right of:
 - (A) taxpayers to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(f) All bonds shall be sold at not less than par value plus accrued interest to date of delivery by the city fiscal officer to the highest

bidder after giving notice of the sale of the bonds by publication in accordance with IC 5-3-1.

(g) The bonds are subject to approval by the city legislative body, in the manner it prescribes by ordinance or resolution.

(h) The bonds are not corporate obligations or indebtedness of the city, but are an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all property of the district. The bonds must recite these terms upon their face, together with the purposes for which they are issued.

(i) An action to question the validity of bonds of the district or to prevent their issue may not be brought after the date set for the sale of the bonds.

(j) The board may, instead of selling the bonds in series, sell the bonds to run for a period of five (5) years from the date of issue for the purposes of this chapter at any rate of interest payable semiannually, also exempt from taxation for all purposes. The board may sell bonds in series to refund the five (5) year bonds.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.18; P.L.27-1986, SEC.8; P.L.2-1989, SEC.55; P.L.146-2008, SEC.794.

IC 36-10-4-36

Cumulative building and sinking fund; establishment; levy of tax

Sec. 36. (a) To raise money for any of the purposes for which bonds may be issued under section 35 of this chapter, the board may request that the city legislative body adopt an ordinance establishing a cumulative building and sinking fund. The legislative body may establish a cumulative building and sinking fund under IC 6-1.1-41. The tax may not exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable personal and real property in the district.

(b) The tax, when collected, shall be held in a public depository in a special fund to be known as the park district cumulative building and sinking fund.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.100; P.L.17-1995, SEC.43; P.L.6-1997, SEC.233.

IC 36-10-4-37

District bond fund; proceeds from sale of bonds; disposition of fund

Sec. 37. (a) All proceeds from the sale of bonds issued under section 35 of this chapter shall be kept as a separate fund to pay for:

- (1) the cost of land and other property acquired;
- (2) the cost of improvement; and
- (3) all costs and expenses incurred in connection with the project.

(b) The fund may not be used for any other purpose. The fund shall be deposited, at interest, with the depository or depositories of other public funds of the city, and all interest collected on it belongs to the fund. A surplus remaining from the proceeds of the bonds after

all costs and expenses are fully paid shall be paid into and becomes a part of the district bond fund.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-38

Special tax to pay principal of bonds and accruing interest; collection; accumulations of fund before use for payment

Sec. 38. (a) To raise money to pay all bonds issued under section 35 of this chapter, including interest, the board shall levy each year a special tax upon all of the real and personal property located in the district to pay the principal of the bonds as they mature, together with all accruing interest. The board shall have the tax levied each year certified to the auditor of the county in which the district is located by October 1 each year.

(b) The tax levied and certified shall be collected and enforced in the same manner as other city taxes are collected and enforced. As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the park district bond fund. The tax shall be used to pay the bonds and interest as they mature and may not be used for any other purpose.

(c) All accumulations of the fund before use for the payment of bonds and interest shall be deposited, at interest, with one (1) of the depositories of other public funds of the city, with interest collected belonging to the fund.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-39

Payment for land taken or purchased or work done by contract; recording of land description and purpose of acquisition

Sec. 39. (a) The board shall pay to the parties the amounts respectively due them for land taken or purchased or work done by contract or otherwise from the fund derived from the sale of bonds and from assessments of benefits. No other source may be used for this payment. If the land or a part of it is secured by purchase or contract, the payment shall be made according to the terms of the contract. If land is taken by condemnation, the amount of damages assessed shall be paid or tendered within ninety (90) days after the final determination of the condemnation proceedings, or as soon after that as the bond fund is available. The title to the land, or that part paid for or otherwise acquired for these purposes, then vests in the city in the manner, to the extent, for the purposes, and subject to the limitations provided.

(b) Within sixty (60) days after land or an interest in it is acquired or taken under this chapter, the board shall file and have recorded in the recorder's office in the county in which the land is situated a description of it sufficiently accurate for its identification, including a statement of the purposes for which it is required or taken signed by a majority of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-40

Separate contracts with another party for public improvements or repairs; violation of section

Sec. 40. (a) Unless the board publicly declares an emergency, it may not during any six (6) month period make separate contracts with another party for public improvements or repairs under section 13 of this chapter on the same construction or repair site or on the same construction or repair project involving more than one (1) site, without advertising for and accepting public bids, if the aggregate cost of the separate contract is more than fifteen thousand dollars (\$15,000).

(b) A commissioner who knowingly violates subsection (a) commits a Level 6 felony.

(c) A person who accepts a contract with the board, knowing that subsection (a) was violated in connection with the contract, commits a Level 6 felony and may not be a party to or benefit from any contract with an Indiana governmental entity for two (2) years after the date of the person's conviction.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.57, SEC.44; P.L.158-2013, SEC.682.

IC 36-10-5

Chapter 5. Miscellaneous Municipal Park Provisions

IC 36-10-5-1

Application of chapter

Sec. 1. This chapter applies to the municipalities indicated in each section.

As added by Acts 1981, P.L.309, SEC.112.

IC 36-10-5-2

Designation and powers and duties of park authority in certain municipalities; powers of municipality; tax levy; borrowing and issuance of bonds; deposit of funds

Sec. 2. (a) This section applies to:

- (1) third class cities and towns, unless otherwise provided by law; and
- (2) each second class city that:
 - (A) adopted second class city status by ordinance under IC 36-4-1-1.1, as a result of the 2010 federal decennial census; and
 - (B) has adopted all or part of this section by ordinance or resolution.

(b) As used in this section, "park authority" means:

- (1) the municipal legislative body; or
- (2) any of the following designated by the legislative body as the park authority:
 - (A) The governing body of the school corporation.
 - (B) A recreation board.
 - (C) The municipal works board.
 - (D) Any other appropriate board or commission.

(c) If a recreation board is established under subsection (b)(2)(B), it must consist of five (5) resident freeholders appointed by the city executive or the town legislative body. At least one (1) member must be a member of the governing body of the school corporation and no members may serve on the municipal legislative body. All members must be qualified by an interest in and knowledge of the social and educational value of recreation. The members serve without compensation. The members shall be appointed for four (4) year terms from January 1 of the year of their appointment or until their successors are appointed. The initial terms of board members, however, are as follows:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) for terms of four (4) years.

A vacancy shall be filled by the appointing authority for the remainder of the unexpired term.

(d) The park authority shall manage all public parks, including approaches, that belong to the municipality.

(e) If a municipality decides, by ordinance, to establish, lay out,

or improve a public park or grounds, or to make an extension of a park or grounds, it may locate the park or grounds, including appurtenances, and it may lay out and open the public ways necessary for the improvement. If it is necessary to acquire land, water rights, or easements, or a pool, lake, or natural stream of water, the park authority may condemn that property and take possession of it if it is located within five (5) miles of the municipality. Before the park authority condemns the property, it shall assess the damages to the owners of the property at a meeting of the authority. Additional condemnation proceedings are the same as those provided for the taking of property to open streets.

(f) The park authority may adopt rules concerning the laying out, improvement, preservation, ornamentation, and management of parks. The park authority shall allow monuments or buildings for libraries, works of art, or historical collections to be erected in a park, as long as they are under the control of the persons in charge of the park and no inclosure separates them from the rest of the park.

(g) The legislative body of the municipality may also levy a tax on all taxable property in the municipality to pay for park property and for its improvement. The legislative body may also borrow money and issue the bonds of the municipality at any rate of interest payable annually or semiannually and may sell them for at least par value. The money derived from the sale of bonds may be used only for the purchase or improvement of parks. The legislative body shall annually levy a tax sufficient to pay the interest on the debt on all taxable property in the municipality to create a sinking fund for the liquidation of the principal of the debt.

(h) If the park authority of a city decides to lease any buildings or grounds belonging to the city and located in a public park when they are not required for public use, the proceeds shall be deposited with the city fiscal officer to the credit of park funds and devoted to the improvement of public parks.

(i) Any nonreverting fund that was created under IC 19-7-6 (before its repeal on September 1, 1981) continues until abolished by ordinance of the municipal legislative body. The legislative body may include in the park authority's annual budget an item and an appropriation for the specific purposes of a nonreverting capital fund. Money put in the fund may not be withdrawn except for the purposes for which the fund was created, unless the legislative body repeals the ordinance creating the fund. The repeal may not be made under suspension of the rules. Money procured from fees shall be deposited at least once each month with the municipal fiscal officer. The fiscal officer shall deposit the money either in a special nonreverting operating fund or in the nonreverting capital fund as directed by the park authority. The legislative body may provide by ordinance that expenditures may be made from the special nonreverting operating fund without appropriation. Money from fees procured from golf courses, swimming pools, skating rinks, or other similar facilities requiring major expenditures for management and maintenance may not be deposited in this fund. Money from either fund shall be

disbursed only on approved claims that are allowed and signed in the same manner as other claims of the municipality are allowed and signed.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.320, SEC.19; P.L.3-1990, SEC.142; P.L.119-2012, SEC.238.

IC 36-10-5-3

Municipalities except consolidated cities; recreational facilities and programs; issuance of bonds or appropriations; revenue bonds

Sec. 3. (a) This section applies to all municipalities except consolidated cities.

(b) If a municipality decides to acquire, construct, develop, improve, and operate recreational facilities and programs for park purposes, it may issue the bonds of the municipality to pay the cost of acquisition, development, and improvement, subject to statutes concerning the issuance of bonds and the making of appropriations by municipalities.

(c) As an alternative method of financing the cost of acquisition, development, and improvement, the municipality may issue revenue bonds. The revenue bonds are not obligations of the municipality within the meaning of constitutional limitations, but are payable solely from the income and revenues of the recreational facilities and programs for park purposes for which they are issued. If the proceeds of the bonds are used to acquire land, the payment of the bonds may be secured by a pledge of the land. Statutes concerning the issuance of revenue bonds by municipalities to construct, acquire, extend, or improve waterworks apply, as far as applicable, to revenue bonds issued under this section regarding the authorization, issuance, sale, character, and immunities of the bonds and the rights, privileges, and powers of the bondholders. However, neither a petition nor an election is required in these proceedings. If statutes authorizing the issuance of waterworks revenue bonds contain different provisions regarding procedure or the rights and remedies of bondholders, the ordinance authorizing the issuance of revenue bonds under this section must set out the particular procedure that the municipal legislative body has adopted and the rights and remedies given to the bondholders.

As added by Acts 1981, P.L.309, SEC.112. Amended by P.L.157-1991, SEC.6.

IC 36-10-5-4

Municipalities having populations less than 20,000; sale of parkland and minerals and mineral rights; disposition of sale proceeds; transfer of sale proceeds to school corporation; notice; hearing

Sec. 4. (a) This section applies to municipalities having a population of less than twenty thousand (20,000).

(b) If the legislative body of a municipality decides to sell the parkland, a part of it, the minerals, mineral rights, or royalties for minerals under the parkland, or part of them, the legislative body may

do so upon passing an ordinance for that purpose providing for the manner and terms of the sale. The legislative body may plat the land by laying it off into lots and public ways, and then selling the lots, after passing an ordinance to that effect or including it in the original ordinance. However, the land may not be sold until it is appraised as required in cities for the conveyance of property. If there is a board of park commissioners in a city, the legislative body shall proceed only upon a resolution of the board filed with the legislative body.

(c) The proceeds derived from the sale of parkland or from minerals, mineral rights, or royalties for minerals under parkland shall be expended for:

- (1) the improvement of the remaining parkland of the municipality;
- (2) the purchase of other land for park purposes;
- (3) the purchase, improvement, equipment, or maintenance of playgrounds, swimming pools, comfort stations, or recreation stations in the municipality; or
- (4) a combination of these purposes.

In addition, money may be used for these purposes if it is derived in part from another source or under another statute.

(d) The legislative body of the municipality may transfer the proceeds or a part of them derived from the sale of parkland or minerals, mineral rights, or royalties for minerals under parkland to the school corporation of the municipality. The proceeds shall be used by the school corporation for providing, equipping, and maintaining playgrounds, swimming pools, comfort stations, or recreation stations, whether they are on school grounds, used in connection with school grounds or school buildings, or on separate grounds. Before proceeds may be transferred to the school corporation for any of these purposes, the legislative body must pass an ordinance providing for the transfer of the proceeds and for what purposes they may be used.

(e) Before final passage of the ordinance for the platting or sale of land by a town, notice of a hearing on the ordinance shall be given in accordance with IC 5-3-1. At the hearing any citizen of the town may appear and present objections to the ordinance and the sale of the land. If a remonstrance signed by twenty-five percent (25%) of the legal voters in the town is filed in the office of the town clerk within the time limits prescribed in the ordinance, the ordinance may not be passed or the land sold.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.45, SEC.101.

IC 36-10-5-5

Municipal boards in certain municipalities

Sec. 5. (a) This section applies to a municipality that:

- (1) has a population of more than twenty-five thousand (25,000); and
- (2) is located in a county having a population of more than two hundred seventy thousand (270,000) but less than three hundred

thousand (300,000).

(b) A municipal board consists of four (4) members appointed by the executive of the municipality. A member shall be appointed on the basis of the member's interest in and knowledge of parks and recreation. The members may include the executive of the municipality and one (1) or more members of the municipal fiscal body. The ordinance creating a municipal board governed by this section may provide for one (1) or two (2) ex officio members.

As added by P.L.157-1991, SEC.7. Amended by P.L.12-1992, SEC.193; P.L.170-2002, SEC.174; P.L.119-2012, SEC.239.

IC 36-10-6

Chapter 6. Miscellaneous County Park Provisions

IC 36-10-6-1

Application of chapter

Sec. 1. This chapter applies to the counties indicated in each section.

As added by Acts 1981, P.L.309, SEC.113.

IC 36-10-6-2

Establishment of area park district; procedure; powers of board; withdrawal from district

Sec. 2. (a) This section applies to all counties.

(b) As used in this section, "board" refers to an area park board established under this chapter.

(c) As used in this section, "district" refers to an area park district established under this chapter.

(d) Two (2) or more counties may establish an area park district for the purposes of establishing, owning, maintaining, and controlling one (1) or more public parks for the use and benefit of the residents of those counties. To establish a district, the legislative body of each county desiring to join shall adopt substantially identical ordinances indicating this intention. Before the ordinances take effect, they must be published in their respective counties in accordance with IC 5-3-1. Within ten (10) days after the publication of the ordinance, the auditor of each county shall file a certified copy of the ordinance with the auditor of each of the other counties involved. When the ordinances have been adopted and filed by all the counties joining, the district is considered established. All of the territory of the counties joining comprises the district.

(e) Within ten (10) days after the publication of the ordinance, any registered voter may notify the legislative body of his intent to file a remonstrance petition. Within sixty (60) days after this notice, petitions for and against the county's joining in the proposed district may be filed with the legislative body. The petitions must be signed and acknowledged by registered voters of the county. The petition that contains the greater number of signatures prevails.

(f) Within thirty (30) days after the establishment of the district, the legislative body of each county joining shall appoint members to the area park board. Each county may appoint one (1) member to the board. In addition, each county may appoint an additional member for each fifty thousand (50,000) residents or fraction thereof of that county's population. Each member must be a resident of the county from which he is appointed, and at least one (1) member from each county must be an elected official of that county. Members serve for terms of four (4) years and may be reappointed. Vacancies shall be filled by the appointing authority for the unexpired term of the vacating member.

(g) The board shall meet within thirty (30) days after the appointment of all members. Notice of the meeting shall be given by

the auditor of the county that passed the first ordinance to establish the district. At the meeting the board shall elect one (1) of its members chairman and one (1) secretary and shall adopt rules of order that it considers necessary. The board shall then meet at times and places that it determines. Members serve on the board without compensation. However, all members except the elected official members are entitled to receive a per diem and mileage for time spent in the performance of their duties.

(h) Except as provided in subsection (i), the board has all of the powers of a board under IC 36-10-3 except the power of eminent domain.

(i) The board may levy a tax for the establishment, purchase, maintenance, and control of the parks established and controlled by the board, but the tax may not exceed one and sixty-seven hundredths cents (\$0.0167) for each one hundred dollars (\$100) of assessed valuation of property in the district. When the board determines the rate of the levy, the board shall certify it to each county auditor. The levy shall then be placed upon the tax duplicate of each county in the district, and the tax shall be collected in the same manner as other taxes are collected. All money received for the district shall be paid into the treasury of the county with the greatest population. The money shall be deposited and kept as other public funds are deposited and kept, and interest earned on the money shall be credited to the area park fund. Money may be paid out by the treasurer only upon the written order of the board.

(j) A county may withdraw from a district only upon a two-thirds (2/3) vote of its legislative body. If a county decides to withdraw from a district, the date of withdrawal must be effective on January 1 of a year at least one (1) year after the date upon which the county voted to withdraw.

As added by Acts 1981, P.L.309, SEC.113. Amended by Acts 1981, P.L.45, SEC.102; P.L.213-1986, SEC.10; P.L.6-1997, SEC.234.

IC 36-10-6-5

Repealed

(Repealed by Acts 1982, P.L.6, SEC.30.)

IC 36-10-6-6

Repealed

(Repealed by Acts 1982, P.L.6, SEC.32.)

IC 36-10-7

Chapter 7. Miscellaneous Township Recreation Provisions

IC 36-10-7-1

Application of chapter

Sec. 1. This chapter applies to the townships indicated in each section.

As added by Acts 1981, P.L.309, SEC.114.

IC 36-10-7-2

Townships except those in county having consolidated city; establishment of community center or recreational land area; bonds; maintenance

Sec. 2. (a) This section applies to all townships except those in a county having a consolidated city.

(b) The township executive may, upon petition of at least twenty-five (25) resident freeholders and approval of the township legislative body, purchase or improve suitable land or purchase, construct, reconstruct, renovate, remodel, or improve room space, buildings, or equipment for:

(1) a township community center for civic, social, recreation, or other township purposes; or

(2) a township recreational land area.

(c) A township may issue general obligation bonds for the purposes set forth in subsection (b) in the manner provided by IC 36-10-3 for the issue of bonds under that chapter.

(d) Money for the purposes set forth in subsection (b) must be appropriated as provided by statute from funds belonging to the township or from the proceeds of a general obligation bond.

(e) The executive may operate and maintain the community center or recreational land area. A property tax levy may be imposed as provided by statute for the cost of all or part of the operation and maintenance expense incurred under this section.

(f) The executive may rent to others all or part of the community center or recreational land area when it is not needed for township purposes. The money received for rent shall be used to pay maintenance and utility expenses of the community center or recreational land area.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.3; P.L.157-1991, SEC.8.

IC 36-10-7-3

Townships; programs, facilities, or services; tax levy; appropriation

Sec. 3. (a) This section applies to all townships.

(b) The township executive may:

(1) levy a tax; and

(2) use appropriated township funds;

to pay for recreation programs, facilities (including a community center used for recreational purposes), or services.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.4; P.L.157-1991, SEC.9.

IC 36-10-7-4

Certain townships; public park or playground; management; records; violation

Sec. 4. (a) This section applies to each township:

- (1) in a county having a consolidated city; or
- (2) containing a second class city within its boundaries that is not a county seat.

(b) If there is a public park or playground in the township under the jurisdiction of the township, the township executive shall manage the park or playground. The executive shall keep complete records of the management and all related transactions, including receipts such as fees, concessions, licenses, permits, and sales. The receipts shall be credited to the general fund of the township.

(c) An executive who violates this section commits a Class C infraction.

As added by Acts 1981, P.L.309, SEC.114.

IC 36-10-7-5

Acquisition of land for park purposes in certain townships; procedure; establishment, maintenance, and improvement of parks; issuance of bonds; tax levy; park and recreation fund; fees; appointment and duties of parks superintendent

Sec. 5. (a) This section applies to a township having a population of more than one hundred fifty thousand (150,000) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The township executive may purchase, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land for park purposes within the township, either inside or outside the corporate boundaries of a municipality, and may make necessary improvements.

(c) If the executive does not purchase, accept, or acquire land within the township for park purposes or make necessary improvements, two hundred (200) resident taxpayers and voters of the township may petition the executive and the legislative body in writing to:

- (1) purchase, accept, or otherwise acquire the land described in the petition so that a township park may be established under this section; or
- (2) make the improvements designated in the petition.

The petition must be addressed to the executive and legislative body and bear the signatures and addresses of the petitioners in ink, acknowledged before a notary public. After the petition is filed in the office of the executive, the executive shall have notice of the filing published in accordance with IC 5-3-1. The notice must name a date at least sixty (60) days after the date of the last publication on which the executive and legislative body will hear and consider the petition.

The notice constitutes notice of the proceedings to all taxpayers within the township, whether resident or nonresident.

(d) At the hearing the executive and legislative body shall hear and consider all remonstrances, whether written and signed in ink or from a resident of the township upon the question of whether the land should be purchased, accepted, or acquired by the township and a township park established, maintained, and improved. After the hearing, the executive and legislative body shall approve the petition unless twenty percent (20%) of the resident taxpayers of the township remonstrate in writing by filing their remonstrance on or before the day fixed for the hearing. In that case the executive and legislative body shall dismiss the petition.

(e) If land has been acquired for park purposes, the executive shall establish a park. After it is established, the executive shall provide for necessary improvements and construct facilities for the comfort and convenience of the public in the township park. Except as otherwise provided, all expenses incurred shall be paid out of the park and recreation fund of the township.

(f) If a park or parkland is acquired by a township under this section and the expense of the acquisition or of the development and improvement of the park is too great to be borne by the park and recreation fund of the township, the legislative body may authorize its chairman to issue the bonds of the township to procure money for these purposes. However, the total bonded indebtedness of the township for park purposes may not exceed one million dollars (\$1,000,000). Upon special notice of the chairman in writing to each member of the legislative body stating the time, place, and purpose of the meeting, the legislative body may determine whether to issue the bonds of the township to pay the cost of acquiring, developing, or improving the park or parkland. If the legislative body determines that it is of public benefit to issue the bonds of the township, the legislative body, by a special order entered and signed upon the record, may authorize its chairman to issue the bonds of the township. The bonds may run for a period not to exceed ten (10) years, may bear interest at any rate, and may be sold for not less than their par value. Before issuing the bonds, the chairman shall publish notice of their sale in accordance with IC 5-3-1. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. The legislative body shall attend the sale and must concur before bonds are sold.

(g) The legislative body shall annually levy a sufficient tax to pay at least one-tenth (1/10) of the amount of the bonds, together with the accrued interest, each year, and the legislative body shall apply the annual tax to the payment of the bonds and interest each year. The tax levy is in addition to all other tax levies authorized by statute. A tax levy authorized by this section shall be levied and collected on all property within the boundaries of the township, including municipalities.

(h) There is established a special nonreverting operating fund for park purposes to be known as the park and recreation fund.

Appropriations may be made from the fund by the township's legislative body for park purposes only. The cost of the maintenance and improvement of the park shall be paid out of the park and recreation fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(i) Money in the form of fees procured from golf courses, swimming pools, skating rinks, clubhouses, social centers, or other similar facilities requiring major expenditures for maintenance and improvement shall be deposited in the park and recreation fund and shall be appropriated by the township legislative body either in the annual budget or by additional appropriation in the manner as set out in IC 6-1.1-18-5.

(j) The executive shall appoint a superintendent of parks. Said appointment shall be made within thirty (30) days of a vacancy in the position of superintendent of parks. If the executive fails to make said appointment within the prescribed period, the legislative body shall have the power to make said appointment. Political affiliation may not be considered in the selection of the superintendent. The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; and
- (2) have a certificate or an advanced degree in the field of parks and recreation.

(k) The superintendent must do the following:

- (1) Propose annually to the executive a plan for the operation of the park.
- (2) Administer the plan as approved by the executive.
- (3) Supervise the general maintenance of the park.
- (4) Keep the records of the park and preserve all papers and documents of the park.
- (5) Keep accurate records of park income and expenditures in the manner prescribed by the state board of accounts.
- (6) Appoint and discharge employees of the park without regard to political affiliation.
- (7) Prepare and present to the executive an annual report.
- (8) Perform other duties that the executive directs.

(l) The executive shall execute an employment contract with the superintendent that must contain the terms and conditions of the superintendent's employment.

As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.29; Acts 1982, P.L.1, SEC.69; P.L.207-1984, SEC.2; P.L.355-1985, SEC.1; P.L.157-1991, SEC.10; P.L.12-1992, SEC.194; P.L.170-2002, SEC.175.

IC 36-10-7-6

Townships containing a town and having a population of at least 8,500; acquisition, improvement, maintenance, and disposal of land for park purposes; procedure; issuance of bonds; tax levy; employment of needy persons

Sec. 6. (a) This section applies to all townships having a population of at least eight thousand five hundred (8,500) that contain a town.

(b) The township executive may do the following in relation to township parks:

- (1) Purchase, acquire by eminent domain, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land within the township for park purposes.
- (2) Make necessary improvements on the land.
- (3) Maintain and operate the land.
- (4) Dispose of all or part of the land that is unnecessary for the park or park purposes.

(c) If the executive decides to acquire land for park purposes under this section, the following procedures apply:

- (1) A resolution to that effect shall be adopted by the legislative body and shall be entered upon the minutes of the legislative body. The resolution must be signed by the members of the legislative body and by the executive.
- (2) Upon a petition signed in ink by at least one hundred (100) resident taxpayers and freeholders of the township, the executive shall, after the adoption of the resolution, fix a day not less than fifteen (15) nor more than twenty (20) days after adoption during which time remonstrances may be filed with the executive against the resolution.
- (3) The executive shall give notice by publication of the resolution and of the time limits for filing remonstrances in accordance with IC 5-3-1.
- (4) Remonstrances must be signed in ink and shall be filed not later than the day fixed for the expiration of the time for filing remonstrances in the notices.
- (5) If the number of signers of remonstrances exceeds the number of signers who have signed the original petition, determined by the same qualifications, the executive may give notice, in accordance with IC 5-3-1, of a date by which time a supplementary petition containing the names of qualified signers in addition to the names signed to the first petition may be filed asking for acquisition.
- (6) A supplemental petition must be signed in ink by signers having the same qualifications as required for the original petition.
- (7) If, after the expiration of the period for filing a supplemental petition, it is determined that the number of qualified signers to the original petition and the supplemental petition exceeds the number of signers to the remonstrance, the executive may proceed with the acquisition of land and the improvement and operation of it.
- (8) If the number signing the remonstrance is greater than the number signing the original and supplemental petition, then the township may not proceed with the improvement.

However, the remonstrance does not prevent the acquisition of land

or inhibit the power of the executive to acquire parkland unless at least twenty percent (20%) of the resident freeholders who are also legal voters, execute the remonstrance. Only the executive and the legislative body may determine the sufficiency of a petition or remonstrance and the qualifications of a signer. These matters are subject to review only for fraud.

(d) The executive may acquire any property, land, privilege, immunities, or other species of interest reasonably necessary for the park or for the purpose of improving, maintaining, or operating it. The executive may sue in the name of the township for the condemnation of any property, land, privilege, immunities, or other species of interest in accordance with statutes available to municipal corporations for condemnation.

(e) To provide money for any of the purposes of this section, the legislative body may authorize the executive to issue the bonds of the township. However, the total bonds issued and outstanding at any time for such purposes may not exceed ninety thousand dollars (\$90,000). The bonds may bear interest at any rate, may be made payable semiannually, shall be sold for at least their par value, and run for a period of not less than ten (10) nor more than twenty (20) years. Parts of the total issue may be sold from time to time as the executive determines. After the authorization of the bonds, the executive shall, in accordance with IC 5-3-1, publish notice of that part of the bonds that will be sold at that time. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. No part of the bonds may be sold except after notice.

(f) The legislative body shall levy annually a sufficient tax to pay at least the principal and interest of bonds that will mature in the following year, and the executive shall apply the tax to the payment of bonds and interest. The tax levy is in addition to other tax levies. The tax shall be levied and collected on all property within the boundaries of the township, including municipalities. The cost of the care, upkeep, repair, maintenance, and improvement of the park shall be paid out of the general fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(g) The executive shall direct the expenditure of the money raised by the bond issue to save money that otherwise would be expended for township assistance. The executive may offer persons who are able-bodied and capable of work the opportunity to work upon the park improvement. If a person refuses without good excuse, the executive shall consider the refusal prima facie evidence that the person is not entitled to township assistance.

As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.31; P.L.157-1991, SEC.11; P.L.73-2005, SEC.175.

IC 36-10-7-7

Acquisition and maintenance of grounds and structures by certain townships for use as public parks; public park fund

Sec. 7. (a) This section applies to all townships having a population between two thousand (2,000) and three thousand (3,000).

(b) The township executive may accept, acquire, and maintain grounds and structures to be used as public parks upon petition of at least fifty-one percent (51%) of the resident taxpayers of the township.

(c) Whenever a park has been established in the township, the legislative body shall, at its annual meeting and annually each following year, levy a tax not exceeding one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of taxable property in the township. The money shall be set aside in a public park fund to be used by the executive for the maintenance and improvement of the park and for no other purpose.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.157-1991, SEC.12; P.L.6-1997, SEC.235.

IC 36-10-7-8

Acquisition of land for park purposes by certain townships; improvements; maintenance; bonds; levy of taxes

Sec. 8. (a) This section applies to all townships having a population of less than two thousand (2,000).

(b) The township executive may lease, purchase, accept by grant, devise, bequest, or other conveyance to the township, or otherwise acquire land for park purposes and may make necessary improvements only as provided by this section.

(c) The legislative body may establish a township park and may, by resolution, appropriate from the general fund of the township the necessary money to lease, purchase, accept, or otherwise acquire land for park purposes or make improvements thereon. The executive shall then lease, purchase, accept, or acquire the land for park purposes or shall make improvements thereon as directed in the resolution. However, the costs of the park grounds or of the improvements provided for in the resolution may not exceed in one (1) year one-fifth of one percent (0.2%) of the adjusted value of all taxable property of the township as determined under IC 36-1-15.

(d) If a park has been established under this section, the executive shall have the park maintained and may make improvements and construct and maintain facilities for the comfort and convenience of the public. However, the executive annually may not spend more than one cent (\$0.01) on each one hundred dollars (\$100) of assessed valuation of taxable property in the township as it appears on the tax duplicates of the auditor of the county in which the township is located. The money shall be paid from the general fund of the township.

(e) If the general fund of the township is insufficient to meet the expenses of acquiring or improving the land for park purposes, the executive shall call a special meeting of the legislative body by written notice to each member of the legislative body at least three (3) days before the date of the meeting. The notice must state the time, place, and purpose of the meeting. The legislative body shall

meet and determine whether an emergency exists for the issuance of the warrants or bonds of the township. The legislative body shall, by resolution, authorize the issuance and sale of the warrants or bonds of the township in an amount not exceeding two percent (2%) of the adjusted value of all taxable property in the township as determined under IC 36-1-15. The amount of bonds may not exceed the total estimated cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings. The proceeds from the sale of the bonds shall be deposited in the general fund of the township. The bonds become due and payable not less than two (2) nor more than ten (10) years after the date of issuance, may bear interest at any rate, and may not be sold for less than par value. The bonds shall be sold after giving notice of the sale of bonds in accordance with IC 5-3-1. The bonds and the interest thereon are exempt from taxation as provided by IC 6-8-5 and are subject to the provisions of IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the appropriation of the proceeds of the bonds, and the approval by the department of local government finance.

(f) The legislative body shall, at its next annual meeting after authorization of bonds and annually each following year, levy a sufficient tax against all the taxable property of the township to pay the principal of the bonds, together with accruing interest, as they become due. The executive shall apply the money received from the levy only to the payment of bonds and interest as they become due.

(g) In addition to the levy required by subsection (f), the legislative body shall, when a park has been established under this section and at every annual meeting after establishment, levy a tax not exceeding one cent (\$0.01) on each one hundred dollars (\$100) of taxable property in the township. The levy required by this subsection shall be used by the executive for the maintenance and improvement of the park. The executive may not expend more for maintenance and improvement of the park than the amount collected by the levy except:

- (1) upon petition by fifty-one percent (51%) of the taxpayers of the township; or
- (2) when warrants or bonds are to be issued under this section to finance the expenses of improvements.

The amount received from the levy shall be deposited in the general fund of the township.

(h) A park established under this section shall be kept open to the public in accordance with rules prescribed by the executive.

(i) If the executive determines that land or other property used for park purposes under this section should be disposed of and that the park should no longer be maintained, the executive shall appoint three (3) disinterested appraisers to appraise the property. The property shall then be disposed of either at public or private sale for at least its appraised value.

(j) This subsection applies if the township sells the property by acceptance of bids. A bid submitted by a trust (as defined in

IC 30-4-1-1(a) must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

(k) All money from the sale of park property, less the expenses incurred in making the appraisal and sale, shall be paid into the general fund of the township.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.373-1983, SEC.1; P.L.208-1984, SEC.1; P.L.336-1989(ss), SEC.55; P.L.157-1991, SEC.13; P.L.6-1997, SEC.236; P.L.90-2002, SEC.518.

IC 36-10-7-9

Membership of department and board of parks and recreation of certain townships

Sec. 9. (a) This section applies to the township having the largest population in a county having a population of:

- (1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000); or
- (2) more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000).

(b) Notwithstanding IC 36-10-7.5-5, the department of parks and recreation of a township described in subsection (a) consists of four (4) members appointed by the township executive on the basis of the members' interest in and knowledge of parks and recreation. The members of a board governed by this section may include any of the following:

- (1) The township executive.
- (2) One (1) or more members of the township board.
- (3) Any other persons residing in the township.

As added by P.L.157-1991, SEC.14. Amended by P.L.12-1992, SEC.195; P.L.271-1993, SEC.2; P.L.170-2002, SEC.176; P.L.119-2012, SEC.240.

IC 36-10-7.5

Chapter 7.5. Township General Park and Recreation Law

IC 36-10-7.5-1

Application of chapter

Sec. 1. This chapter applies to all townships.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-1.5

"Park and recreation board" defined

Sec. 1.5. As used in this chapter, "park and recreation board" refers to a township park and recreation board established under section 5.5 of this chapter.

As added by P.L.271-1993, SEC.3.

IC 36-10-7.5-2

"Department" defined

Sec. 2. As used in this chapter, "department" refers to a department of parks and recreation created under section 5 of this chapter.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.4.

IC 36-10-7.5-3

"District" defined

Sec. 3. As used in this chapter, "district" refers to a special taxing district created under this chapter.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-3.5

"Park governor" defined

Sec. 3.5. As used in this chapter, "park governor" means the following:

(1) The executive, if a township park and recreation board is not established under section 5.5 of this chapter.

(2) The township park and recreation board, if a township park and recreation board is established under section 5.5 of this chapter.

As added by P.L.271-1993, SEC.5.

IC 36-10-7.5-4

"Superintendent" defined

Sec. 4. As used in this chapter, "superintendent" refers to a superintendent of parks and recreation appointed under this chapter.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.6.

IC 36-10-7.5-5

Creation of department of parks and recreation; resolution; transfer of property from prior authority

Sec. 5. (a) The legislative body of a township may adopt a resolution creating a department of parks and recreation under this chapter and repealing prior resolutions creating other park and recreation authorities. Except as provided in IC 36-10-7-9, the department consists of:

- (1) the park governor;
- (2) the superintendent of parks and recreation, if the township has a superintendent appointed under section 11 of this chapter; and
- (3) other personnel that the park governor determines.

(b) After a department has been created under this section, all books, papers, documents, and other property of former park and recreation authorities are transferred to and become the property of the department.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.7.

IC 36-10-7.5-5.5

Township park and recreation board

Sec. 5.5. (a) In a township having a department of parks and recreation established under section 5 of this chapter, the executive may establish a township park and recreation board.

(b) A township park and recreation board established under this section consists of:

- (1) the executive; and
- (2) three (3) persons appointed by the executive to serve at the pleasure of the executive.

(c) The executive or an appointed member of the township park and recreation board established under this section remains a member of the board until a successor is elected or appointed and qualified.

As added by P.L.271-1993, SEC.8.

IC 36-10-7.5-6

Park governor; powers and duties

Sec. 6. The park governor shall do the following:

- (1) Exercise general supervision of and make rules for the department.
- (2) Establish rules governing the use of the park and recreation facilities by the public.
- (3) Provide police protection for park property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers. The deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers.
- (4) Appoint the necessary administrative officers of the department and fix their duties.
- (5) Establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.10.

IC 36-10-7.5-8

Lease of buildings and grounds

Sec. 8. The park governor may lease any buildings or grounds that:

- (1) belong to the township; and
- (2) are located within a park;

to a person for a period not greater than fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.11.

IC 36-10-7.5-9

Sale of surplus property; appraisal

Sec. 9. (a) The park governor may sell or order sold through a designated representative by public or private sale any personal property that the park governor has declared to be surplus and declared to have an aggregate appraised value not greater than five thousand dollars (\$5,000).

(b) Whenever the park governor decides to sell at a private sale, the park governor must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish the following information in the manner provided in IC 5-3-1:

- (1) The fact that a private sale will be held.
- (2) The location of the sale.
- (3) The dates of the beginning and end of the sale.
- (4) The time of day during which the sale will take place.
- (5) The kinds of items to be sold at the sale.
- (6) The price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

(c) If the park governor decides to sell at a public sale, the park governor shall conduct the sale in the manner provided by law for the township to sell surplus property.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.12.

IC 36-10-7.5-10

Conference attendance

Sec. 10. If the park governor determines that the executive or any

park employee should attend a state, regional, or national conference dealing with park and recreation problems, the park governor may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the department's appropriation.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.13.

IC 36-10-7.5-11

Superintendent; appointment; qualifications

Sec. 11. (a) The park governor may appoint a superintendent of parks and recreation. The park governor may not consider political affiliation in the selection of the superintendent.

(b) The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; or
- (2) have a certification or an advanced degree in the field of parks and recreation.

(c) An incumbent township employee performing park and recreation functions in a supervisory capacity at the time a township adopts a creating resolution under this chapter is eligible for appointment as superintendent or as an assistant, but the employee must have the required training, experience, or certification.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.14.

IC 36-10-7.5-12

Powers and duties of superintendent

Sec. 12. Under the direction of the park governor, the superintendent of the township shall do the following:

- (1) Propose annually to the park governor a plan for the operation of the department.
- (2) Administer the plan as approved by the park governor.
- (3) Supervise the general administration of the department.
- (4) Keep the records of the department and preserve all papers and documents of the department.
- (5) Recommend persons for appointment as assistants if the park governor determines there is a need for assistants.
- (6) Appoint the employees of the department, subject to the approval of the park governor according to the standards and qualifications fixed by the park governor and without regard to political affiliation.
- (7) Prepare and present to the park governor an annual report.
- (8) Perform other duties that the park governor directs.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.15.

IC 36-10-7.5-13

Assistants to superintendent

Sec. 13. (a) If the park governor determines that the size of the

department's operation requires assistants for the superintendent, the park governor may appoint, upon the recommendation of the superintendent, at least one (1) assistant. The park governor shall determine the assistant's qualifications on a basis similar to that prescribed for the superintendent.

(b) Each assistant is directly responsible to the superintendent and shall perform the duties specified by the superintendent.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.16.

IC 36-10-7.5-14

Officers' and employees' bonds and crime policies

Sec. 14. (a) Each officer and employee who handles money in the performance of duties under this chapter must execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the township may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and approved by the park governor.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.17; P.L.49-1995, SEC.13.

IC 36-10-7.5-15

Advisory council or special committee; membership; responsibilities

Sec. 15. (a) The park governor may create an advisory council or special committees composed of citizens who are interested in parks and recreation.

(b) In selecting an advisory council or a special committee, the park governor shall give consideration to the groups in the community particularly interested in parks and recreation. When creating an advisory council or a special committee, the park governor shall specify the terms of the members and the purposes for which the council or committee is created.

(c) An advisory council or a special committee shall do the following:

(1) Study the subjects and problems specified by the park governor and recommend to the park governor additional problems in need of study.

(2) Advise the park governor concerning these subjects, particularly as they relate to different areas and groups in the community.

(3) Report only to the park governor.

(4) Make inquiries and reports only in those areas specified by the park governor.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.18.

IC 36-10-7.5-16

Gifts, grants, and transfers

Sec. 16. (a) The park governor may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the park governor may not be made without the approval of the park governor.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the park governor for purposes specified by the grantor. The fiscal officer of the township may draw warrants against the fund only upon vouchers signed by the executive.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.19.

IC 36-10-7.5-17

Special benefit taxes; provision of operating revenues

Sec. 17. (a) The territory within the boundaries of the township comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the township shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

- (1) a specific levy to be used exclusively for these purposes;
- (2) a special appropriation; or
- (3) both.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-18

Special nonreverting capital fund

Sec. 18. (a) Upon the request of the executive, the fiscal body of the township may establish by resolution a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the department's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution. The fiscal body may not repeal the resolution under suspension of the rules.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-19

Township park and recreation cumulative building fund

Sec. 19. (a) The fiscal body may establish a cumulative building

fund under IC 6-1.1-41 to provide money for:

- (1) building, remodeling, and repair of park and recreation facilities; or
- (2) purchase of land for park and recreation purposes.

(b) To provide for the cumulative building fund, the township fiscal body may levy a tax in compliance with IC 6-1.1-41 not greater than one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of assessed valuation of taxable property within the township.

(c) The tax shall be collected and held in a special fund known as the township park and recreation cumulative building fund.

As added by P.L.157-1991, SEC.15. Amended by P.L.17-1995, SEC.44; P.L.6-1997, SEC.237.

IC 36-10-7.5-20

Fees; management and deposit of collections

Sec. 20. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the park governor may charge a reasonable fee.

(b) The township fiscal body may establish by resolution upon request of the executive any of the following:

- (1) A special nonreverting operating fund for park purposes from which expenditures may be made as provided by resolution by appropriation by the board township fiscal body.
- (2) A special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the township fiscal body.

(c) The fiscal body shall designate the fund or funds into which the township fiscal officer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance.

(d) Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the township fiscal officer either in the special nonreverting operating fund or in the nonreverting capital fund as directed by the fiscal body. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the township general fund.

(e) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution establishing the fund. The fiscal body may not repeal the resolution under suspension of the rules.

(f) Money procured from fees or received from the sale of surplus property under this chapter shall be deposited at least one time each month with the fiscal officer of the township.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.20.

IC 36-10-7.5-21

Land acquisition or appropriation and improvements

Sec. 21. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the executive or the fiscal body decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

the legislative body may adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the executive shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. Before adopting a resolution, the legislative body shall receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the township, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the executive or the legislative body by the original notice of publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether the land is owned by one (1) or more persons. If the land or a part of the land is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The executive may, at any time before the adoption of the resolution:

- (1) obtain from the owner of the land an option for the purchase of the land; or
- (2) enter into a contract for the purchase of the land upon the

terms and conditions that the executive considers best.

The option or contract is subject to the final approval of the legislative body confirming, modifying, or rescinding the option or contract and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the executive decides to acquire any lots or parcels of land by purchase, the executive shall appoint three (3) qualified appraisers to appraise the value of the land. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or that may incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then view the land, determine the true market value of the land at that time, and report the appraisal in writing. The report shall be filed with and becomes a part of the record of the proceeding.

(h) The executive may not take an option on the land or enter into a contract to purchase the land at a higher price than the value named in the report. The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the executive due to the acquisition of land or to construction work shall be paid out of the funds under the control of the executive and is not an indebtedness or obligation of the township.

(i) At the time fixed for the hearing or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the chairman of the legislative body.

(j) At the hearing, which may be adjourned from time to time, the legislative body shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the legislative body shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-22

District bonds for land acquisition or improvements

Sec. 22. (a) To raise money to pay for land to be acquired for any of the purposes named in this chapter or to pay for an improvement authorized by this chapter, and in anticipation of the special benefit tax to be levied as provided in this chapter, the legislative body shall issue in the name of the township the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together

with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the legislative body under this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the executive at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars (\$1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the legislative body shall certify a copy of the resolution to the township's fiscal officer. The fiscal officer shall prepare the bonds, and the executive shall execute the bonds, attested by the fiscal officer.

(c) The bonds and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

- (1) the filing of a petition requesting the issuance of bonds;
- (2) the right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the appropriation of the proceeds of the bonds with the approval of the department of local government finance; and
- (4) the sale of bonds at public sale for not less than the par value of the bonds.

(d) The legislative body may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the total adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the township but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. A bond must recite the terms upon the face of the bond, together with the purposes for which the bond is issued.

As added by P.L.157-1991, SEC.15. Amended by P.L.6-1997, SEC.238; P.L.90-2002, SEC.519; P.L.219-2007, SEC.145;

P.L.146-2008, SEC.795.

IC 36-10-7.5-23

Bond issue; notice and hearing

Sec. 23. (a) Before bonds may be issued under this chapter, the legislative body shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The legislative body shall publish in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-24

Funds from bond proceeds; use; surplus

Sec. 24. All proceeds from the sale of bonds issued under this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the district bond fund.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-25

Tax levy; district bond fund

Sec. 25. (a) To raise money to pay all bonds issued under this chapter, the fiscal body shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as the bonds mature, including accrued interest. The fiscal body shall have the tax to be levied each year certified to the auditor of the county in which the township is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, the tax shall be accumulated and kept in a separate fund to be known as the district bond fund. The tax shall be applied to the payment of the bonds and interest as the bonds mature and may not be used for another purpose.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-26

Contracts or leases with not-for-profit corporations

Sec. 26. (a) The executive may enter into a lease or a contract with a not-for-profit corporation providing detailed terms and conditions for the following:

- (1) The performance of historical pageants and entertainments.
- (2) The charging of admission.
- (3) The maintenance of the facilities.

(b) The contract must not extend for a longer term than the term of the bonds.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-27

Bondholder rights under other statutes

Sec. 27. The general assembly covenants that it will not repeal or amend:

- (1) IC 6-9-7-6;
- (2) IC 6-9-7-7;
- (3) IC 36-10-3-40;
- (4) IC 36-10-3-41;
- (5) IC 36-10-3-42; and
- (6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.

As added by P.L.157-1991, SEC.15.

IC 36-10-8

Chapter 8. Capital Improvement Boards in Certain Counties

IC 36-10-8-1

Application of chapter

Sec. 1. This chapter applies to all counties not having a consolidated city.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.16-1983, SEC.22.

IC 36-10-8-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers subject to or created under this chapter.

"Net income" means the gross income after deducting:

- (1) the necessary operational expenses of the board in performing its duties (the expenses not to exceed the amount budgeted or approved); and
- (2) any reserve provided for in the budget.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-3

Continuation; creation; authority to finance capital improvements

Sec. 3. (a) If a county had in existence on January 1, 1982, a capital improvement board of managers that was created under IC 18-7-18 (before its repeal on February 24, 1982), that board continues to exist and is subject to this chapter. In any other county to which this chapter applies, a capital improvement board of managers may be created by ordinance of the county legislative body.

(b) A county to which this chapter applies may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.213-1986, SEC.11; P.L.163-1987, SEC.8; P.L.3-1990, SEC.143.

IC 36-10-8-4

Membership; terms; vacancies; removal; oath; reimbursement of expenses

Sec. 4. (a) The board is composed of seven (7) members.

(b) The county executive shall determine in the creating ordinance which units within the county shall make appointments to the board. In addition, the creating ordinance must provide that no more than four (4) of the members be affiliated with the same political party. The creating ordinance must also provide staggered terms for the appointments.

(c) Notwithstanding subsection (b), if a board was created under IC 18-7-18 (before its repeal on February 24, 1982), three (3) members shall be appointed by the executive of the second class city and three (3) members shall be appointed by the executive of the

county. Those members shall select the seventh member, who serves as president. One (1) of the members appointed by the city executive must be engaged in the hospitality industry in the city. No more than two (2) of the members appointed by the city executive may be affiliated with the same political party and no more than two (2) of the members appointed by the county executive may be affiliated with the same political party. In addition, each member must have been a resident of the county for at least one (1) year immediately preceding the member's appointment. Initial terms of the members are as follows:

(1) One (1) of the members appointed by each appointing authority for a term ending January 15 of the year following the appointment.

(2) Two (2) of the members appointed by each appointing authority for a term ending January 15 of the second year following the appointment.

(3) The seventh member serves for a term ending January 15 of the second year following the appointment.

(d) Subsequent terms of members are for two (2) years. All terms begin on January 15. A member serves until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(e) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(f) A board member may be removed for cause by the appointing authority who appointed the member.

(g) Each member, before entering upon the member's duties, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment. The certificate shall be promptly filed with the records of the board. However, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), the certificate shall be filed with the clerk of the circuit court of the county in which the board is created.

(h) A member may not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.163-1987, SEC.9; P.L.3-1990, SEC.144; P.L.176-2009, SEC.27; P.L.229-2011, SEC.267.

IC 36-10-8-5

Organizational meeting; officers; bylaws; quorum; approval of actions

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. They shall elect one (1) of the members vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The members may adopt the bylaws and rules that they

consider necessary for the proper conduct of their duties and the safeguarding of the funds and property entrusted to their care. A majority of the members constitutes a quorum, and the concurrence of a majority of the board is necessary to authorize any action.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-6

Name; powers

Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), "(name of the county) and (name of the city) capital improvement board of managers", do the following:

- (1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.
- (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.
- (3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.
- (4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.
- (5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.
- (6) Fix charges and establish rules and regulations governing the use of a capital improvement.
- (7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

- (8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.
- (9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.
- (10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.
- (11) Provide coverage for its employees under IC 22-3 and IC 22-4.
- (12) Purchase public liability and other insurance considered desirable.
- (13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.
- (14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.
- (15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.
- (16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.
- (17) Promote the development and growth of the convention and visitor industry in the county.
- (18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.145; P.L.8-1993, SEC.519; P.L.176-2009, SEC.28.

IC 36-10-8-7

Additional powers

Sec. 7. The board may hire architects, engineers, accountants, attorneys, and consultants in connection with the preparation of plans and specifications for a capital improvement and its financing, paying for it as provided under section 12 of this chapter. The acquisition of a site for a capital improvement, the adoption of plans and specifications, the advertising for bids, and the awarding of contracts for the erection or equipping of the capital improvement shall be done by the board under statutes governing these activities by cities or counties. Title to or interest in any property acquired shall be held in the board's name, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all conveyances, leases, contracts, and other instruments in connection with it.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-8

Budget; preparation; review

Sec. 8. The board shall prepare a budget for each calendar year covering the projected operating expenses, estimated income, and reasonable reserves. It shall submit the budget for review, approval, or rejection to the fiscal body of the county and, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also the fiscal body of the second class city. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the respective fiscal bodies.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.146.

IC 36-10-8-9

Deposit of net income from operation of capital improvements

Sec. 9. The net income received by the board from the operation of capital improvements under this chapter shall be deposited semiannually on June 1 and December 1 in the capital improvement fund provided in section 12 of this chapter. However, if there are bonds outstanding, the net income from the convention center shall be deposited in the capital improvement bond fund provided in section 13 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-10

Payment of certain operational expenses from capital improvement fund

Sec. 10. All operational expenses actually incurred by the board within the approved budget necessary to be paid before the receipt of income by the board from the leasing or use of a capital improvement, and any expenses that cannot be paid from that income because of an excess of expenses over income, shall be met and paid by funds in the capital improvement fund.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-11**Handling and expenditure of funds; treasurer; controller; reports; audits**

Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. He shall give bond for the faithful performance and discharge of all duties required of him by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by him to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into his hands as required by this chapter and IC 6-7-1-30.1, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. He shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in the amount and with surety and other conditions that may be prescribed and approved by the board. He shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a

reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.19-1987, SEC.56.

IC 36-10-8-12

Capital improvement fund; deposit of tax revenues; expenditures

Sec. 12. Unless there are bonds outstanding under this chapter, any tax revenues received by the board from the treasurer of the state as provided by law shall be deposited in a separate and distinct fund called the "capital improvement fund". Any money in the fund may be expended by the board without the necessity of an appropriation to pay:

- (1) operating expenses and maintain reasonable reserves;
- (2) for services of architects, engineers, accountants, attorneys, and consultants;
- (3) for all or part of the cost of a capital improvement;
- (4) the principal on, or interest of, any bonds issued under this chapter that cannot be paid from money in the capital improvement bond fund; or
- (5) for any other purpose that has been budgeted and approved under section 8 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-13

Capital improvement bond fund; amount of revenue to be deposited; excess revenues; use of funds

Sec. 13. (a) If there are bonds outstanding issued under section 14 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the "capital improvement bond fund" all tax revenues received as provided by law until there are sufficient funds from those tax revenues, the proceeds of the bonds, or both of these sources, in the capital improvement bond fund to provide the amount required by the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued. The treasurer of the board shall then deposit sufficient tax revenues in the fund to maintain such amounts in the fund as are required by the resolution or resolutions or trust agreement or agreements. The various accounts within the capital improvement bond fund shall be held by the treasurer of the board or by an escrow agent, depository, or trustee as may be provided in the resolution or resolutions or trust agreement

or agreements pursuant to which the bonds are issued.

(b) Any excess tax revenues not required by this section to be deposited in the capital improvement bond fund shall be deposited in the capital improvement fund, or, in the discretion of the board, in any special fund that may be established by the board for the payment of principal and interest on any bonds outstanding issued under this chapter. Amounts in the capital improvement bond fund shall be applied to the payment of principal of the bonds and the interest on them and to no other purpose.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-14

Revenue bonds; authority to issue; procedure

Sec. 14. (a) A capital improvement may be financed in whole or in part by the issuance of revenue bonds payable solely out of the net income received from the operation of a capital improvement and from the tax revenues provided by law that are required by this chapter to be deposited in the capital improvement bond fund.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) The board shall submit the resolution to the county executive, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), to the executive of the second class city, who shall review it. If the executive approves the resolution, then the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The bonds shall be sold at public sale in accordance with IC 5-1-11. All bonds and interest are exempt from taxation in Indiana to the extent provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from money in the capital improvement bond fund.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds

must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the board's name and must recite on the face that the principal of and interest on the bonds is payable solely from the net income received from the operation of the capital improvement or from the net income and other funds made available for this purpose. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed to them. The seal shall be attested by the manual or facsimile signature of the county auditor. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state, the county, or any municipality is required to issue any revenue bonds except as may be prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.147; P.L.42-1993, SEC.99.

IC 36-10-8-15

Bonds; covenant with purchasers; continuation of statute

Sec. 15. The Indiana general assembly covenants with the purchasers of any bonds issued under this chapter that the statute authorizing the levy of a specific tax within the county the proceeds of which are required by this chapter to be deposited in a specific fund created under this chapter will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of the tax levied, or reduce the rates or amounts of the tax, as long as the principal of, or interest on, any bonds is unpaid. The board, on behalf of the county, is authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued under this chapter or in any resolution or trust agreement pursuant to which the bonds are issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-16

General obligation bonds; authority to issue; procedure

Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or,

if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

- (1) the filing of a petition requesting the issuance of bonds and giving notice;
- (2) the right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the giving of notice of the determination to issue bonds;
- (4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;
- (5) the right of taxpayers to appear and be heard on the proposed appropriation;
- (6) the approval of the appropriation by the department of local government finance; and
- (7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.148; P.L.90-2002, SEC.520; P.L.219-2007, SEC.146; P.L.146-2008, SEC.796; P.L.176-2009, SEC.29.

IC 36-10-8-17

Bonds; application of proceeds to construction cost; deposit in reserve subaccount

Sec. 17. (a) All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement for which the bonds are issued. The cost may include:

- (1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that the board considers necessary or desirable to make the capital improvement suitable for use and operation;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds; and
- (6) interest during construction.

(b) To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds under section 14 of this chapter, proceeds of these bonds may be deposited in the reserve subaccount of the capital improvement bond fund established under section 13 of this chapter. However, the amount deposited, when added to any amount in that subaccount, may not exceed the maximum amount required to be in the subaccount by section 14 of this chapter, taking into consideration the bonds then being issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-18

Tax exemption

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-19

Joint and cooperative planning, financing, construction, operation, and maintenance agreements

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government may enter into agreements, contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction,

operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement. The buildings, facilities, structures, or improvements may include:

- (1) facilities for the comfort of visitors and other persons using the capital improvement;
- (2) parking lots and garages;
- (3) walks and pedestrian ways;
- (4) landscaping, lighting, and beautification; and
- (5) open spaces, malls, or plazas desirable to produce a unified architectural and artistic setting for the capital improvement.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-20

Dissolution of boards created under IC 18-7-18; escheat of funds

Sec. 20. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) If the board is dissolved voluntarily or involuntarily, any funds in the possession of the board or to the credit of the board in the possession of the state escheat to the general fund of the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.149.

IC 36-10-8-21

Capital improvement board of managers operations; annual report

Sec. 21. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) On or before March 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.

As added by P.L.176-2009, SEC.30.

IC 36-10-9

Chapter 9. Marion County Capital Improvement Board

IC 36-10-9-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers created under this chapter.

"Bonds" means bonds issued under section 12 or section 15 of this chapter and, except as used in section 12 of this chapter or unless the context otherwise requires, lease agreements entered into under section 6(15) of this chapter.

"Excise taxes" refers to the excise taxes imposed by IC 6-9-8, IC 6-9-12, and IC 6-9-13.

"Issue", "issued", or "issuance" means in the case of lease agreements "execute", "executed", or "execution" respectively.

"Lease agreements" means lease agreements entered into under section 6(15) of this chapter.

"Net income" means the gross income from the operation of a capital improvement after deducting the necessary operating expenses of the board.

"Notes" means notes issued under section 21 of this chapter.

"Operating expenses" means:

- (1) the necessary operational expenses of the board in performing its duties under this chapter, including maintenance, repairs, replacements, alterations, and costs of services of architects, engineers, accountants, attorneys, and consultants;
- (2) the expenses for any other purpose that has been approved under section 8 of this chapter; and
- (3) the maintenance of reasonable reserves for any of the items listed in subdivisions (1) and (2) of this definition or for other purposes required under a resolution, ordinance, or trust agreement.

"Principal and interest" or "principal on and interest of" includes, unless the context otherwise requires, payments required by lease agreements.

"Pre-1981 general obligation bonds" means general obligation bonds issued before January 1, 1981.

"Trust agreements", except as used in section 13 of this chapter or unless the context otherwise requires, includes lease agreements.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.82-1985, SEC.9.

IC 36-10-9-3

Creation of county board of managers; powers of county

Sec. 3. (a) A capital improvement board of managers is created in the county.

(b) The county may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-4

County board of managers; membership; terms; vacancies; oath of office; compensation

Sec. 4. (a) The board is composed of nine (9) members. Six (6) members shall be appointed by the executive of the consolidated city, one (1) member shall be appointed by the board of commissioners of the county, one (1) member shall be appointed by the legislative body of the consolidated city from among the members of the legislative body, and one (1) member shall be appointed jointly by majority vote of a body consisting of one (1) member of the board of county commissioners of each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment. The board of county commissioners that has the greatest population of all counties in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment shall convene the meeting to make the joint appointment. Each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment is entitled to be represented at the meeting by one (1) member of the county's board of county commissioner, who shall be selected by that county's board of county commissioners. One (1) of the members appointed by the executive must be engaged in the hotel or motel business in the county. Not more than four (4) of the members appointed by the executive may be affiliated with the same political party.

(b) The terms of members are for two (2) years beginning on January 15 and until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(c) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(d) A board member may be removed for cause by the appointing authority who appointed the member.

(e) Each member, before entering upon the duties of office, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment, which shall be promptly filed with the records of the board.

(f) A member does not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.116-1995, SEC.8; P.L.182-2009(ss), SEC.454.

IC 36-10-9-5

County board of managers; organizational meetings

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The board may adopt the bylaws and rules that it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care. A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-6

County board of managers; powers and duties as capital improvement board of managers

Sec. 6. The board may, acting under the title "capital improvement board of managers of _____ County", do the following:

(1) Acquire by grant, purchase, gift, devise, lease, condemnation, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and all property rights and interests necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement built or acquired by the board under this chapter.

(3) Control and operate a capital improvement, including letting concessions and leasing all or part of the capital improvement.

(4) Fix charges and establish rules governing the use of a capital improvement.

(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or political subdivisions, foundations, and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, and any political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(6) Exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(7) Receive and collect money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes.

(8) Receive excise taxes, income taxes, and ad valorem property taxes and expend the money for operating expenses, payments of principal or interest of bonds or notes issued under this chapter, and for all or part of the cost of a capital improvement.

(9) Retain the services of architects, engineers, accountants,

attorneys, and consultants and hire employees upon terms and conditions established by the board, so long as any employees or members of the board authorized to receive, collect, and expend money are covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(10) Provide coverage for its employees under IC 22-3 and IC 22-4.

(11) Purchase public liability and other insurance considered desirable.

(12) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(13) Sue and be sued in the name and style of "capital improvement board of managers of _____ County" (including the name of the county), service of process being had by leaving a copy at the board's office.

(14) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement, including the convention and visitor industry, and serve the commercial, industrial, and cultural interests of Indiana and its citizens. The board may assist, cooperate, and fund governmental, public, and private agencies and groups for these purposes.

(15) Enter into leases of capital improvements and sell or lease property under IC 5-1-17 or IC 36-10-9.1.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.82-1985, SEC.10; P.L.8-1993, SEC.520; P.L.255-1997(ss), SEC.21; P.L.214-2005, SEC.75.

IC 36-10-9-7

Procurement of materials and work; emergency procedure; title to or interest in property

Sec. 7. (a) The purchase or lease of material and work on a capital improvement shall be done by the board under statutes governing these activities by counties. However, if the total cost of construction or equipping of a capital improvement or of the alteration, maintenance, or repair of any building is estimated to be fifty thousand dollars (\$50,000) or less, the board may procure materials and perform the work by its own employees and with owned or leased equipment without awarding a contract. In addition, in an emergency determined and declared by the board and entered in its records, the board may make emergency alterations, repairs, or replacements and contract for them without advertising for bids.

(b) Title to or interest in any property acquired shall be held in the name of the county, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all

conveyances, leases, contracts, and other instruments in connection with it. However, real property may not be sold without the approval of the executive of the consolidated city.
As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-8

Annual budget; capital improvement; issuance of bonds

Sec. 8. (a) The board shall prepare a budget for each calendar year covering the projected operating expenses, projected expenditures for capital improvements or land acquisition, and estimated income to pay the operating expenses and capital expenditures, including amounts, if any, to be received from excise taxes and ad valorem property taxes. It shall submit the operating and capital budget for review, approval, or rejection to the city-county legislative body. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the legislative body. However, payments to users of any capital improvement that constitute a contractual share of box office receipts are neither an operating expense nor an expenditure within the meaning of this section.

(b) If the board desires to finance a capital improvement in whole or in part by the issuance of bonds under section 12 or 15 of this chapter, the board shall submit the following information to the city-county legislative body at least thirty (30) days before the adoption of a resolution authorizing the issuance of the bonds:

- (1) A description of the project to be financed through the issuance of bonds.
- (2) The total amount of the project anticipated to be funded through the issuance of bonds.
- (3) The total amount of other anticipated revenue sources for the project.
- (4) Any other terms upon which the bonds will be issued.

(c) The city-county legislative body must discuss the information provided in subsection (b) in a public hearing held before the resolution may be adopted by the board.

(d) The board shall post the board's proposed budget and adopted budget on the board's Internet web site.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.42-1994, SEC.14; P.L.182-2009(ss), SEC.455.

IC 36-10-9-8.1

Long range financial plan

Sec. 8.1. (a) During 2009, the board shall prepare a long range financial plan covering the period beginning with the year 2010 and ending with the year 2041. The long range financial plan must set forth the following:

- (1) The schedule for the retirement of all debt that is outstanding as of January 1, 2010.
- (2) An estimated operating and capital budget for each calendar year that covers the projected operating expenses, debt

obligations, expenditures for capital improvements and land acquisition, and estimated income to pay these items, including the source of each type of income.

(b) Before January 1, 2010, the board shall deliver a copy of the long range financial plan to each member of the city-county legislative body and to the legislative council in an electronic format under IC 5-14-6.

(c) The city-county legislative body shall discuss the long range financial plan in a public hearing.

As added by P.L.182-2009(ss), SEC.456.

IC 36-10-9-9

Treasurer; controller; duties; board of accounts audits

Sec. 9. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. The treasurer shall give bond for the faithful performance and discharge of all duties required of the treasurer by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by the county treasurer to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all funds coming into the treasurer's hands as required by this chapter and by IC 6-7-1-30.1, and in accordance with IC 5-13. Money so deposited may be invested and reinvested by the treasurer in accordance with general statutes relating to the investment of public funds and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested, except as provided in a resolution, ordinance, or trust agreement providing for the issuance of bonds or notes. All funds invested in deposit accounts as provided in IC 5-13-9 must be insured under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. The controller shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of the controller in the amount and with surety and other conditions that may be prescribed and approved by the board. The controller shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the

state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Warrants may be executed with facsimile signatures.

(e) If there are bonds or notes outstanding issued under this chapter, the controller shall deposit with the paying agent or other paying officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates. The controller shall make the deposit with money from the sources provided in this chapter, and he shall make the deposit in an amount that, together with other money available for the payment of the principal and interest, is sufficient to make the payment. In addition, the controller shall make other deposits for the bonds and notes as is required by this chapter or by the resolutions, ordinances, or trust agreements under which the bonds or notes are issued.

(f) The controller shall submit to the board at least annually a report of the board's accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The state board of accounts shall audit annually the accounts, books, and records of the board and prepare a financial report and a compliance audit report. The board shall submit to the city-county legislative body financial and compliance reports of the state board of accounts. The board shall post the reports of the state board of accounts on the board's Internet web site. The city-county legislative body shall discuss the financial and compliance reports of the state board of accounts in a public hearing. The handling and expenditure of funds is subject to supervision by the state board of accounts.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.19-1987, SEC.57; P.L.46-1997, SEC.17; P.L.182-2009(ss), SEC.457.

IC 36-10-9-10

Capital improvement fund

Sec. 10. (a) Unless there are bonds or notes outstanding under this chapter and secured in whole or in part by money deposited in the capital improvement bond fund, the proceeds of excise taxes received from the treasurer of the state shall be deposited in a separate and distinct fund called the "capital improvement fund". The gross income received by the board from the operation of capital improvements under this chapter shall be deposited in the capital improvement fund, regardless of whether or not there are any bonds or notes outstanding. Any money in the fund may be expended by the

board without the necessity of an appropriation to pay or provide for the payment of operating expenses. Money in the fund may also be used by the board without appropriation or approval to pay the principal on, or interest of, any bonds or notes issued under this chapter that cannot be paid from funds in the capital improvement bond fund or may be used for the payment of the principal of, redemption premium, if any, for, and interest on any bonds or notes issued under this chapter, upon prior redemption, or for all or part of the cost of a capital improvement.

(b) The board may covenant in any resolution, ordinance, or trust agreement providing for the issuance of bonds or notes as to the order of application of money deposited in the capital improvement fund, including the holding or disposing of any surplus in that fund.

(c) The net income from the operation of capital improvements under this chapter shall be transferred from the capital improvement fund to the capital improvement bond fund to the extent of any deficiency in the amount required to be in the capital improvement bond fund.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-11

Capital improvement bond fund

Sec. 11. (a) If there are any outstanding bonds or notes issued under this chapter and secured in whole or in part by money deposited in the capital improvement bond fund, the treasurer of the board shall, except as otherwise provided in this section, deposit the following amounts in a separate and distinct fund called the "capital improvement bond fund":

- (1) Excise tax proceeds received by the treasurer.
- (2) Net income transferred to the capital improvement bond fund under section 10 of this chapter.
- (3) Any other amounts received for deposit in the capital improvement bond fund.

(b) Principal and interest subaccounts shall be maintained in the capital improvement bond fund. The lesser of the following amounts shall be deposited in the principal and interest subaccounts:

- (1) The total of the amounts listed in subsection (a).
- (2) The total of the following amounts:
 - (A) In the principal and interest subaccount for the pre-1981 general obligation bonds, the amount required to provide sufficient funds to pay the principal of and interest coming due within the next twelve (12) months on the pre-1981 general obligation bonds.
 - (B) In the principal and interest subaccounts for all outstanding bonds and notes issued under this chapter, other than the pre-1981 general obligation bonds, the amounts required by the resolutions, ordinances, and trust agreements under which the bonds or notes are issued.

The deposits shall be made pro rata as between pre-1981 general obligation bonds, if any, and all other bonds and notes issued under

this chapter. Deposits to principal and interest subaccounts for notes and for bonds, other than pre-1981 general obligation bonds, shall be made in the manner and in the order of priority that is provided in the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Amounts in a principal and interest subaccount may be used solely to pay the principal of and interest on the issue or issues of bonds or notes for which the principal and interest subaccount was established.

(c) The treasurer of the board shall maintain in the capital improvement bond fund a bond reserve subaccount for the pre-1981 general obligation bonds. The treasurer shall maintain the subaccount in an amount equal to the maximum amount of principal and interest coming due on the pre-1981 general obligation bonds in any subsequent year. Reserve subaccounts shall also be maintained for other bonds and for notes secured in whole or in part by money deposited in the capital improvement bond fund; these subaccounts shall be maintained to the extent and in the amount required by the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Amounts described in subsection (a) that are not required to be deposited in principal and interest subaccounts under subsection (b) shall be deposited in the reserve subaccounts to the extent of any deficiency in those subaccounts. The deposits shall be made pro rata as between the reserve subaccount for pre-1981 general obligation bonds and all other reserve subaccounts. Deposits to the reserve subaccounts for notes and for bonds, other than pre-1981 general obligation bonds, shall be made in the manner and in the order of priority that is provided in the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Subject to subsection (e), amounts in a reserve subaccount may be used solely to pay the principal of and interest on the issue or issues of bonds or notes for which the reserve subaccount was established and only to the extent amounts in the principal and interest subaccount for the issue or issues of bonds or notes are not sufficient for that purpose.

(d) Amounts described in subsection (a) that are not required to be deposited in principal and interest subaccounts or bond reserve subaccounts under subsections (b) and (c) shall be deposited in the capital improvement fund rather than the capital improvement bond fund.

(e) Unless otherwise provided in any resolution, ordinance, or trust agreement under which bonds or notes are issued, amounts in the capital improvement bond fund in excess of the amount required by this section to be on deposit in that fund shall be transferred to the capital improvement fund.

(f) The principal and interest subaccount and bond reserve subaccount for the pre-1981 general obligation bonds shall be held by the treasurer of the board. Other principal and interest subaccounts and bond reserve subaccounts shall be held by the treasurer or by an escrow agent, depository, or trustee provided in the resolutions, ordinances, or trust agreements establishing the subaccounts. One (1) principal and interest subaccount or bond reserve subaccount may be

established for two (2) or more issues of bonds or notes.

(g) Amounts in the capital improvement bond fund on June 1, 1981, shall be first used to establish the principal and interest subaccount for the pre-1981 general obligation bonds in the required amount and then to establish the bond reserve subaccount for those bonds in the required amount. Any excess remaining shall be deposited in the capital improvement fund.

(h) For purposes of this section and section 10 of this chapter, bonds issued under section 15 of this chapter shall be considered to be secured by money deposited in the capital improvement bond fund, if provided in the resolution, ordinance, or trust agreement providing for the issuance of the bonds.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-11.1

Defeased bonds; use of funds in capital improvement bond fund and capital improvement fund

Sec. 11.1. (a) Upon the defeasance of an issue of capital improvement board bonds, the board may use funds in its capital improvement bond fund for those defeased bonds for the purposes set forth in subsection (b) if the board:

(1) has sold all or part of a capital improvement to a county convention and recreation facilities authority and leased it back; or

(2) has leased all or part of a capital improvement to a county convention and recreation facilities authority and leased it back.

(b) The board may use the funds in the capital improvement fund for the defeased bonds for the following:

(1) As payment of lease rental or as a reserve for lease rental.

(2) As a deposit with the county convention and recreation facilities authority or a trustee for the authority's bond owners to be used for payment of those bonds or as a reserve for those bonds.

(3) For any purpose for which the board is authorized to expend or apply funds.

(4) For any combination of the purposes set forth in subdivisions (1), (2), and (3).

As added by P.L.82-1985, SEC.11.

IC 36-10-9-12

Revenue bonds

Sec. 12. (a) A capital improvement may be financed in whole or in part by the issuance of bonds payable, to the extent stated in the resolution or trust agreement providing for the issuance of the bonds, solely from one (1) or more of the following sources:

(1) Net income received from the operation of the capital improvement and not required to be deposited in the capital improvement bond fund under section 11 of this chapter.

(2) Net income received from the operation of any other capital improvement or improvements and not required to be deposited

in the capital improvement bond fund under section 11 of this chapter.

(3) Money in the capital improvement bond fund available for that purpose.

(4) Money in the capital improvement fund available for that purpose.

(5) Any other funds made available for that purpose.

The resolution or trust agreement may pledge all or part of those amounts to the repayment of the bonds and may secure the bonds by a lien on the amounts pledged.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) If the city-county legislative body approves issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review it. If the executive approves the resolution, the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may, under section 13 of this chapter, enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract of sale for the bonds;

whichever occurs first.

(d) Bonds issued under this section may be sold at public or private sale for the price or prices that are provided in the resolution authorizing the issuance of bonds. All bonds and interest are exempt from taxation in Indiana as provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from any other funds.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the name of the county and must recite on the face that the principal of and interest on the bonds is payable solely from the amounts pledged to their payment. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the auditor of the county. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer or a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to issue any revenue bonds except as prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.42-1993, SEC.100; P.L.182-2009(ss), SEC.458.

IC 36-10-9-13

Revenue bonds; trust agreement; resolution; operating expenses

Sec. 13. (a) Revenue bonds issued under this chapter may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Any resolution adopted by the board providing for the issuance of revenue bonds and any trust agreement under which the revenue bonds are issued may pledge or assign, subject only to valid prior pledges, all or a part of the amounts authorized by this chapter, but the board may not convey or mortgage any capital improvement or any part of a capital improvement.

(b) In authorizing the issuance of revenue bonds, the board may:

(1) limit the amount of revenue bonds that may be issued as a first lien against the amounts pledged to the payment of those revenue bonds; or

(2) authorize the issuance from time to time of additional revenue bonds secured by the same lien.

Additional revenue bonds shall be issued on the terms and conditions provided in the bond resolution or resolutions adopted by the board and in the trust agreement or any agreement supplemental to the trust agreement. Additional revenue bonds may be secured equally and ratably without preference, priority, or distinction with the original

issue of revenue bonds or may be made junior to the original issue of revenue bonds.

(c) Any pledge or assignment made by the board under this section is valid and binding from the time that the pledge or assignment is made, and the amounts pledged and received by the board are immediately subject to the lien of the pledge or assignment without physical delivery of those amounts or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board irrespective of whether these parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or an assignment need be filed or recorded in order to perfect the resulting lien against third parties. However, a copy of the pledge or assignment shall be filed in the records of the board.

(d) Any trust agreement or resolution providing for the issuance of revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law. The provisions may include covenants stating the duties of the board in relation to:

- (1) the acquisition of property;
- (2) the construction, improvement, maintenance, repair, operation, and insurance of the capital improvement or capital improvements in connection with which the bonds have been authorized;
- (3) the rates of fees, rentals, or other charges to be collected for the use of the capital improvement or capital improvements;
- (4) the custody, safeguarding, investment, and application of all money received or to be received by the board or trustee;
- (5) the establishment of funds, reserves, and accounts; and
- (6) the employment of consulting engineers in connection with the construction or operation of the capital improvement or capital improvements.

(e) It is lawful for any bank or trust company incorporated under statute, and any national banking association that may act as depository of the proceeds of bonds or other funds of the board, to furnish indemnifying bonds or to pledge securities that are required by the board.

(f) Any trust agreement entered into under this section may state the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, the trust agreement may contain other provisions that the board considers reasonable and proper for the security of the bondholders.

(g) All expenses incurred in carrying out a trust agreement entered into under this section may be treated as a part of the necessary operating expenses of the board.

As added by Acts 1982, P.L.77, SEC.28.

Tax covenant with bond purchasers

Sec. 14. (a) The Indiana general assembly covenants with the purchasers of any bonds or notes issued under this chapter that:

- (1) the excise taxes pledged to the payment of those bonds and notes will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of those taxes; and

(2) it will not reduce the rates or amounts of those taxes; as long as the principal of, or interest on, any bonds or notes is unpaid.

(b) The board, on behalf of the county, may make a similar pledge or covenant in any agreement with the purchasers of any bonds or notes issued under this chapter.

(c) For purposes of this section, the principal of or interest on bonds or notes is considered paid if provision has been made for their payment in such a manner that the bonds or notes are not considered to be outstanding under the resolution, ordinance, or trust agreement under which the bonds or notes are issued.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-15

General obligation bonds

Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the city-county legislative body for approval under IC 36-3-6-9, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) If the city-county legislative body approves the issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review the resolution. If the executive approves the resolution, the board shall take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

- (d) The provisions of all general statutes relating to:
- (1) the filing of a petition requesting the issuance of bonds and giving notice;
 - (2) the right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
 - (3) the giving of notice of the determination to issue bonds;
 - (4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;
 - (5) the right of taxpayers to appear and be heard on the proposed appropriation;
 - (6) the approval of the appropriation by the department of local government finance; and
 - (7) the sale of bonds at public sale for not less than par value;

are applicable to the issuance of bonds under this section.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.90-2002, SEC.521; P.L.219-2007, SEC.147; P.L.146-2008, SEC.797; P.L.182-2009(ss), SEC.459.

IC 36-10-9-16

Bond revenue; use

Sec. 16. All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement or capital improvements or the cost of refunding or refinancing outstanding bonds or notes, for which the bonds are issued. The cost may include:

- (1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operation;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest and for operations, extensions, replacements, renovations, and improvements;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on the bonds or notes being refunded or refinanced.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.5-1988,

SEC.223.

IC 36-10-9-17

Rights of holders of notes or bonds

Sec. 17. Unless their rights are restricted by the appropriate bond resolution, ordinance, or trust agreement, any holder of notes or bonds (except pre-1981 general obligation bonds) issued under this chapter or a trustee under a trust agreement entered into under this chapter may, by any suitable form of legal proceeding, protect and enforce any rights provided under statute or granted by the bond resolution, ordinance, or trust agreement.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-18

Tax exemptions

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-19

Contracts of board, state, and political subdivisions

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government, may enter into agreements, contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction, operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-20

State appropriation

Sec. 20. (a) Four million dollars (\$4,000,000) has been appropriated out of money in the general fund of the state not otherwise appropriated for distribution by the auditor and treasurer of state to a board that was in existence on March 11, 1967, to be expended by the board for the purpose of financing a convention center to be known as the Indiana convention exposition center. However, the four million dollar (\$4,000,000) appropriation could not be spent by the board until funds and assets, exclusive of real property, in addition to this appropriation, had been received by the board under section 6 of this chapter of a total value of two million dollars (\$2,000,000) in excess of the cost of the funds and assets to the board. The valuation of the funds and assets shall be conclusively determined by the board and the executive of the consolidated city. This appropriation does not lapse at the end of any biennium.

(b) The four million dollars (\$4,000,000), including accrued

interest, shall be repaid to the treasurer of state by December 31, 2000, in annual installments. The first payment shall be made on or before December 31, 1992. The amount of the payment must include interest at two percent (2%) per year. The repayment shall be made by the board from net income received from the operation of the convention center, from available amounts in the capital improvement fund, and from any contributions, bequests, or other sources available to the board for this purpose.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.27-1992, SEC.29.

IC 36-10-9-21

Borrowing in anticipation of funds

Sec. 21. (a) In anticipation of funds to be received from any source, the board may borrow money and issue notes for a term not exceeding ten (10) years and at a rate or rates of interest determined by the board. The notes shall be issued in the name of the "capital improvement board of managers of _____ county" and may be secured (either on a parity with or junior and subordinate to any outstanding bonds or notes) by:

- (1) the pledge of income and revenues of any capital improvement;
- (2) the proceeds of excise taxes; or
- (3) any other funds anticipated to be received.

The notes are payable solely from the income, excise taxes, revenues, and anticipated funds.

(b) The financing may be negotiated directly by the board with any bank, insurance company, savings association, or other financial institution licensed to do business in Indiana upon the terms and conditions that are agreed upon, except as specifically provided in this section, and may be consummated without public offering. The notes plus interest are exempt from taxation in Indiana as provided for bonds in IC 6-8-5.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.79-1998, SEC.111.

IC 36-10-9-22

Defense and indemnity of officers and employees in legal actions

Sec. 22. A board established under this chapter may defend any current or former member of the board or its officers, employees, or agents in a claim or suit, at law or in equity, that arises from the exercise of powers or the performance of duties or services for the board or that arises from official acts as a member of the board. The board may indemnify a person for any liability, cost, or damages related to a claim or suit, including the payment of legal fees. Before taking action authorized by this section, the board must, by resolution, determine that the action or conduct in question was taken, done, or omitted in good faith.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9.1

Chapter 9.1. Marion County Convention and Recreational Facilities Authority

IC 36-10-9.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" refers to the county convention and recreational facilities authority created by this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-3

"Board" defined

Sec. 3. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-4

"Bonds" defined

Sec. 4. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-5

"Capital improvement board" defined

Sec. 5. As used in this chapter, "capital improvement board" refers to the capital improvement board of managers created by IC 36-10-9.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-6

Creation of authority

Sec. 6. A _____ County Convention and Recreational Facilities Authority (the blank to be filled in with the name of the county) is created in the county as a separate body corporate and politic as an instrumentality of the county to finance facilities for lease to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-7

Board of directors; members

Sec. 7. (a) The board is composed of three (3) members, who must be residents of the county appointed by the executive of the county.

(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the executive of the county shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A board member may be removed for cause by the executive of the county.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) A member may not receive a salary.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-8

Organizational meeting; officers; special meetings; quorum

Sec. 8. (a) Immediately after January 15 of each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the board or any two (2) members of the board.

(c) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-9

Bylaws and rules

Sec. 9. The board may adopt such bylaws and rules as it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-10

Purposes

Sec. 10. The authority is organized for the following purposes:

(1) Financing, constructing, and leasing capital improvements to the capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to the capital improvement board.

(3) Acquiring all or a portion of one (1) or more capital improvements from the capital improvement board by purchase or lease and leasing these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital improvements from the capital improvement board by purchase

or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-11

Powers

Sec. 11. The authority may also:

- (1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip capital improvements;
- (2) lease those capital improvements to the capital improvement board;
- (3) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit or superior court of the county in which the authority is located;
- (4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;
- (5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
- (6) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;
- (7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;
- (8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of capital improvements or improvements thereto;
- (9) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; and
- (10) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-12

Refunding of bonds

Sec. 12. (a) Bonds issued under IC 36-10-9 or prior law may be refunded as provided in this section.

(b) The capital improvement board may:

- (1) lease all or a portion of a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-9 or prior law and issuing its bonds to refund those bonds; and

- (2) sell all or a portion of a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the capital improvement or improvements from the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-13

Lease of capital improvements to capital improvement board; terms

Sec. 13. (a) Before a lease may be entered into, both the capital improvement board and the executive of the county must find that the lease rental provided for is fair and reasonable.

(b) A lease of capital improvements from the authority to the capital improvement board:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rental for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;
- (3) may contain provisions:
 - (A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation; and
 - (B) requiring payment of lease rentals for an existing capital improvement being used, reconstructed, or renovated;
- (4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;
- (5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness;
- (6) may be entered into before acquisition or construction of a capital improvement;
- (7) must be approved by the executive of the county;
- (8) may provide that the capital improvement board shall agree to:
 - (A) pay all taxes and assessments thereon;
 - (B) maintain insurance thereon for the benefit of the authority; and
 - (C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and
- (9) subject to IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from any one (1) or more of the following sources:
 - (A) Proceeds of one (1) or more of the excise taxes as defined in IC 36-10-9.
 - (B) Net revenues of the capital improvement.

(C) Any other funds available to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-14

Leases; exclusivity of provisions of this chapter

Sec. 14. This chapter contains full and complete authority for leases between the authority and the capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-15

Approval of plans and specifications

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by the capital improvement board and all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-16

Common wall agreements

Sec. 16. The authority and the capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-17

Lease or sale of property by capital improvement board to the authority

Sec. 17. (a) The capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by the capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) The capital improvement board may sell property to the authority for such amount as it determines to be in the best interest of the capital improvement board, which amount may be paid from the proceeds of bonds of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-18

Repealed

(Repealed by P.L.19-1986, SEC.62.)

IC 36-10-9.1-18.1

Bonds; issuance by authority

Sec. 18.1. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring property;
- (2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or
- (3) funding or refunding bonds issued under IC 36-10-9 or prior law.

(b) The bonds are payable solely from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (in any) for, and interest on, the bonds being refunded or refinanced.

As added by P.L.19-1986, SEC.63. Amended by P.L.11-1987, SEC.35.

IC 36-10-9.1-18.2

Bonds; exclusivity of this chapter

Sec. 18.2. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

As added by P.L.19-1986, SEC.64.

IC 36-10-9.1-18.3

Validity of bonds issued under this chapter before February 21, 1986; effect of repeal of section 18 of this chapter

Sec. 18.3. (a) The following do not affect the validity of any bonds issued under this chapter before February 21, 1986:

- (1) The repeal of section 18 of this chapter by P.L.19-1986, SECTION 62.
- (2) The enactment of section 18.1 of this chapter by P.L.19-1986, SECTION 63.
- (3) The enactment of section 18.2 of this chapter by P.L.19-1986, SECTION 64.

(b) Sections 18.1 and 18.2 of this chapter, as enacted by P.L.19-1986, are intended to replace section 18 of this chapter, and the substantive operation and effect of section 18 of this chapter continues uninterrupted until either section 18.1 or 18.2 of this chapter is amended or repealed.

As added by P.L.220-2011, SEC.685.

IC 36-10-9.1-19

Investment in bonds of authority

Sec. 19. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.82-1985, SEC.12. Amended by P.L.42-1993, SEC.101.

IC 36-10-9.1-20

Trust indenture as security for bonds

Sec. 20. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;
- (2) contain reasonable and proper provisions for protecting and

- enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
- (3) set forth the rights and remedies of bondholders and trustee; and
 - (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-21

Bonds; issuance by capital improvement board

Sec. 21. If the capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-22

Tax exemption

Sec. 22. All:

- (1) property owned by the authority;
- (2) revenues of the authority; and
- (3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.82-1985, SEC.12. Amended by P.L.21-1990, SEC.58; P.L.254-1997(ss), SEC.35.

IC 36-10-9.1-23

Actions contesting validity of bonds; limitations

Sec. 23. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

- (1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
- (2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.2

Chapter 9.2. Sports and Fitness Facilities

IC 36-10-9.2-1

Applicability of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-2

Bonds or notes to fund facility

Sec. 2. The city-county legislative body may issue bonds or notes to fund all or any part of a facility to promote sports and fitness within the corporate boundaries of the consolidated city, or to pay any costs associated with such a facility, including reimbursement of any costs associated with the facility that have been paid by any other entity.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-3

Public purpose in funding facility

Sec. 3. Funding of such a facility or payment of costs or reimbursement for such a facility constitutes a public purpose by creating or maintaining jobs and employment and by providing for the health and welfare of residents of the consolidated city.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-4

Debt service on bonds or notes

Sec. 4. Debt service on bonds or notes issued under this chapter may be paid from any funds available to pay the debt service, as determined by the city-county legislative body as set forth in IC 5-1-14-4.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-5

Use of facility to serve public health and welfare

Sec. 5. If the proceeds of bonds or notes are used to reimburse any entity under section 2 of this chapter, the consolidated city shall, acting through a board or commission designated for that purpose, contract or make arrangements for the use of the facility to serve the public health and welfare.

As added by P.L.37-1988, SEC.42.

IC 36-10-10

Chapter 10. Civic Center Building Authority in South Bend or Mishawaka

IC 36-10-10-1

Application of chapter

Sec. 1. This chapter applies to the two (2) cities having the largest populations in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.12-1992, SEC.196; P.L.119-2012, SEC.241.

IC 36-10-10-2

Definitions

Sec. 2. As used in this chapter:

"Authority" refers to a civic center building authority created under this chapter.

"Board" refers to the board of directors of the authority.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-3

Creation; procedure

Sec. 3. The legislative body of a city may adopt an ordinance to create an authority under this chapter for the purpose of financing, acquiring, constructing, equipping, and leasing to the city in which the authority is created land and a building or buildings for civic purposes. Upon the adoption of the ordinance a separate municipal corporation known as the "_____ Civic Center Building Authority" (including the name of the city) is created. The clerk of the city shall file a certified copy of the resolution with the judge of the circuit court of the county in which the authority is created.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-4

Board; members; appointment; terms; vacancies; oath

Sec. 4. (a) Within thirty (30) days after the filing of the certified copy of the resolution, the executive of the city shall appoint five (5) directors of the authority. All of the directors must be residents of the county and at least three (3) of them must be residents of the city. The directors shall operate under the title "Civic Center Building Authority Board of Directors". Each appointment shall be evidenced by a written certificate of appointment signed by the executive. A copy of the certificate shall be sent to each appointee.

(b) Initial terms of the directors are as follows:

(1) One (1) for a term of one (1) year.

(2) One (1) for a term of two (2) years.

(3) One (1) for a term of three (3) years.

(4) Two (2) directors for terms of four (4) years each.

At the expiration of a term, the executive shall appoint a successor for

a four (4) year term. Each director serves until his successor is appointed and qualified.

(c) If a director dies, resigns, ceases to be a resident of the city, or is removed for cause, the executive shall appoint another person as director for the remainder of that term. If a person appointed director fails to qualify within ten (10) days after the mailing to him of notice of his appointment, the executive shall appoint another person. Each director, before entering upon his duties, shall take and subscribe an oath of office to be endorsed upon his certificate of appointment. The certificate shall be filed with the clerk of the circuit court.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.7-1983, SEC.43.

IC 36-10-10-5

Board; members; removal; procedure

Sec. 5. A director may be removed from office for good cause by an order of the circuit court of the county in which the authority is located, subject to the procedure of this section. A complaint stating the preferred charges may be filed by any person against a director. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury. If the charges are sustained, the court shall declare the office vacant. A change of venue from the judge shall be granted upon motion, but a change of venue from the county may not be taken.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-6

Board; organizational meeting; officers; annual reorganization meeting

Sec. 6. The directors originally appointed shall meet within fifteen (15) days after their appointment at a time and place designated by the executive for the purpose of organization. The directors shall elect the following officers of the board from among their number:

- (1) President.
- (2) Vice president.
- (3) Secretary.
- (4) Treasurer.

The officers serve until the expiration of the first term to expire. The board shall meet annually to reorganize within thirty (30) days after the appointment of each successor director.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.7-1983, SEC.44.

IC 36-10-10-7

Board; bylaws; meetings; quorum; approval of actions; reimbursement of expenses

Sec. 7. The board may adopt the bylaws and resolutions that it considers necessary for the proper conduct of proceedings, the carrying out of its duties, and the safeguarding of the funds and property of the authority. Regular and special meetings shall be held

at the times that the board determines and upon notice that it fixes, either by resolution or in accordance with the bylaws. A majority of the directors constitutes a quorum, and the concurrence of a majority is necessary to authorize any action. Directors serve without pay but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-8

Directors; conflicts of interest

Sec. 8. A director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction in which any director has a pecuniary interest is void.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-9

Preliminary expenses; payment; reimbursement

Sec. 9. (a) All necessary preliminary expenses actually incurred in the:

- (1) making of surveys;
- (2) estimates of cost and receipts;
- (3) employment of architects, engineers, attorneys, or other consultants;
- (4) giving of notices;
- (5) taking of options; and
- (6) all other expenses necessary to be paid prior to the issue and delivery of bonds;

may be met and paid out of funds provided by the city, from funds on hand or derived from taxes levied and appropriated for these purposes, or from funds received as donations or contributions.

(b) the funds of the city from which payments are made shall be fully reimbursed and repaid by the board out of the first proceeds of the sale of bonds before any other disbursements are made.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-10

Board; powers

Sec. 10. The board may finance and construct a building or buildings to be used as a convention center on land owned or leased by the authority and lease that land and building or buildings to the city in which the authority has been created. The board, acting in the name of the authority, also may:

- (1) sue and be sued; however, all actions against the authority shall be brought in the circuit or superior courts of the county in which the authority is located;
- (2) appropriate, purchase, lease, and hold any real property needed or considered useful in connection with a convention center constructed or to be constructed under this chapter;
- (3) acquire by gift, devise, or bequest real and personal property and hold, use, expend, or dispose of that property for the

- purposes authorized by this chapter;
- (4) enter upon any lots or lands for the purpose of surveying or examining them for determining the location of any convention center;
 - (5) design, order, contract for, and construct a convention center and make all necessary or desirable improvements to the grounds and premises that it acquires;
 - (6) enter into a lease with the city;
 - (7) collect rentals payable as provided for in a lease; and
 - (8) make and enter into all contracts and agreements necessary or incidental for the performance of its duties and the execution of its powers under this chapter.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-11

Lease of land and buildings by city from authority; term; lease before acquisition and construction

Sec. 11. (a) A city may lease land and buildings from the authority for civic purposes. A contract of lease on a particular building may not be entered into for a period of more than forty (40) years, but the lease may be renewable for a similar or shorter period of time.

(b) A city may, in anticipation of the construction and erection of a convention center, including the necessary equipment and appurtenances, make and enter into a lease with the authority prior to the actual acquisition of a site and the construction and erection of the convention center. A lease may not provide for the payment of any lease rental by the lessee until the convention center is ready for occupancy.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-12

Lease; payment of rental; approval

Sec. 12. A lease under this chapter must provide for the payment of the lease rental by the city from the levy of taxes against the real and personal property located within the city. The lease is subject to approval by the department of local government finance under IC 6-3.5. The lease may be executed before approval; however, if the department of local government finance does not approve the lease, it is void.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.522.

IC 36-10-10-13

Lease; notice and hearing; authorization; execution

Sec. 13. (a) When the authority, the city executive, and a majority of the city legislative body have agreed upon the terms and conditions of a lease, and before the final execution of the lease, a notice shall be given by the city clerk by publication of a public hearing to be held by the city legislative body in the city. The hearing shall be held on a day at least ten (10) days after the publication of

notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the city.

(b) The notice must name the date, place, and time of the hearing and must set forth a brief summary of the principal terms of the lease, including the character and location of the property to be leased, the lease rental to be paid, the number of years the contract is to be in effect, and where the proposed lease, drawings, plans, specifications, and estimates may be examined. The proposed lease and the drawings, plans, specifications, and estimates of construction cost must be open to inspection by the public during the ten (10) day period and at the meeting.

(c) All interested persons are entitled to be heard at the hearing concerning the necessity for the execution of the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date with the place to be set before adjournment. Following the hearing the city legislative body and city executive may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon with the authority, the legislative body, and city executive. The authorization must be done by ordinance, which shall be entered in the official records of the legislative body. The lease contract shall be executed on behalf of the city by the executive and attested by the city clerk. It shall be executed on behalf of the authority by the president or vice president and secretary of the board.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-14

Lease; notice of execution; filing and certification of objections; hearing and decision by department of local government finance

Sec. 14. (a) If the execution of the lease is authorized, notice of the execution shall be given on behalf of the city by publication one (1) time in a newspaper of general circulation printed in the English language and published in the city. Fifty (50) or more taxpayers in the city whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease, or that the lease rental is not fair and reasonable, may file a petition in the office of the city clerk within fifteen (15) days after publication of notice of the execution of the lease, setting forth their objections and the facts supporting those objections.

(b) Upon the filing of a petition, the city clerk shall immediately certify a copy, together with other data that is necessary in order to present the questions involved, to the department of local government finance. Upon receipt of a certified petition and information, the department of local government finance shall set a time and place for the hearing of the matter in the city where the petition originated. The hearing shall be held at least five (5) but not more than fifteen (15) days after receipt of the petition by the department of local government finance. Notice of the hearing shall be given by the department of local government finance to the city executive and to

the first ten (10) taxpayer petitioners on the petition by certified mail sent to the addresses listed on the petition at least five (5) days before the date of the hearing. After the hearing, the department of local government finance shall promptly issue its decision on the petition. *As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.523.*

IC 36-10-10-15

Lease; action to contest validity or enjoin performance; limitation

Sec. 15. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be brought at any time later than fifteen (15) days after publication of notice of the execution of the lease, or if an appeal has been taken to the department of local government finance, then fifteen (15) days after the decision of the department.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.524.

IC 36-10-10-16

Lease; options to renew or purchase; issuance of general obligation bonds by city to pay purchase price

Sec. 16. (a) A lease may provide that the lessee has an option to renew the lease for a similar or shorter term, on conditions that are provided in the lease. The lease must contain an option to purchase at any time after ten (10) years from the execution of the lease and before the expiration of the term of the lease on the date or dates in each year that are fixed, at a price equal to the amount required to enable the authority to redeem all outstanding securities payable out of the rentals provided in the lease, all premiums payable on redemption, and accrued and unpaid interest, and to pay all other indebtedness and obligations of the authority attributable to the construction and leasing of the convention center, including the cost of liquidation of the authority if it is to be liquidated. A lease may not provide, nor may it be construed to provide, that the city is under any obligation to purchase the convention center or under any obligation with respect to any creditors or bondholders of the authority.

(b) A city exercising an option to purchase may issue general obligation bonds for the purpose of procuring funds with which to pay the purchase price of the convention center. The bonds shall be authorized, issued, and sold in the manner provided by statute.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-17

Lease; approval of plans, specifications, and estimates

Sec. 17. Before the execution of a lease, the authority proposing to build a convention center for lease to a city shall submit to and receive approval by the city executive and city legislative body of the plans, specifications, and estimates of cost for the convention center. The plans and specifications shall be submitted to and approved by the state department of health, the department of homeland security,

and other state agencies that are designated by statute to pass on plans and specifications for public buildings.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.8-1984, SEC.129; P.L.2-1992, SEC.896; P.L.1-2006, SEC.586.

IC 36-10-10-18

Sale or lease of land by city to authority

Sec. 18. (a) A city desiring to have a convention center erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the convention center to the city.

(b) Before a sale may take place, the city executive, with the approval of the city legislative body, shall file a petition with the circuit court of that county requesting the appointment of:

(1) one (1) disinterested freeholder of the city as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land. Upon their appointment, the appraisers shall fix the fair market value of the land and report within two (2) weeks from the date of their appointment. The city may then sell the land to the authority for an amount not less than the amount fixed as the fair market value by the appraisers, the amount to be paid in cash upon delivery of the deed by the city to the authority. A sale of land by a city to the authority shall be authorized by the city executive and city legislative body by ordinance, which shall be entered in the official records of the legislative body. The deed shall be executed on behalf of the city by the executive and attested by the city clerk.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.113-2006, SEC.23.

IC 36-10-10-19

Revenue bonds; issuance; resolution

Sec. 19. (a) In order to procure funds to pay the cost of a convention center to be built or acquired under this chapter, and to repay advances for preliminary expenses made to the authority by the city under section 9 of this chapter, the board may issue revenue bonds of the authority. The bonds are payable solely from the income and revenues of the particular convention center financed from the proceeds of the bonds.

(b) The revenue bonds shall be authorized by resolution of the board and must bear interest at a rate or rates per year not exceeding the maximum rate fixed in the resolution, payable semiannually or annually, and mature serially, either annually or semiannually, at the times that are determined by the resolution of the board authorizing the bonds. The maturities of the bonds may not extend over a period longer than the period of the lease of the convention center for which

the bonds are issued. The bonds may be made redeemable before maturity at the option of the authority, to be exercised by the board, at par value together with the premiums and under the terms and conditions that are fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium.

(c) The resolution must determine the form of the bonds, including the interest coupons to be attached, and must fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which must be at a state or national bank or trust company within Indiana or may be at one (1) or more state or national banks or trust companies outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute, and all bonds constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute. Provision may be made for the registration of the bonds in the name of the owner as to principal alone.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.42-1993, SEC.102.

IC 36-10-10-20

Revenue bonds; execution; sale; authority to issue refunding bonds

Sec. 20. (a) The bonds shall be executed by the president of the board and the corporate seal of the authority shall be affixed and attested by the secretary of the board. The interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer on them. The bonds shall be sold by the board at public sale and for not less than the par value. Notice of sale shall be published in accordance with IC 5-3-1.

(b) The board shall award the bonds to the highest bidder as determined by computing the total interest on the bonds from the date of issue to the dates of maturity and deducting the premium bid, if any, unless the board determines that no acceptable bid has been received. In that case the sale may be continued from day to day, not to exceed thirty (30) days. A bid may not be accepted that is lower than the highest bid received at the time fixed for sale in the bond sale notice.

(c) Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. The board may also issue refunding bonds under IC 5-1-5.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-21

Bonds; application of proceeds; lien

Sec. 21. All money received from any bond issued under this chapter, after reimbursement and repayment to the city of all amounts advanced for preliminary expenses as provided in section 9 of this chapter, shall be applied to the payment of the costs of site acquisition and construction and equipment of the convention center for which the bonds are issued, including incidental expenses, and may include interest during construction and for a period of one (1) year thereafter. A lien exists on all money, until so applied, in favor of the holders of the bonds or the trustees.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-22

Bonds; trust indenture

Sec. 22. In the discretion of the board, the bonds may be secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana having trust powers. The trust indenture may mortgage all or part of the land, convention center, or both for which the bonds are issued. The trust indenture may contain the provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper, including covenants setting forth the duties of the authority and board in relation to the construction of the convention center, its insurance, and the custody, safeguarding, and application of all money received or to be received by the authority due to the convention center financed by the issuance of the bonds. The indenture may set forth the rights and remedies of the bondholders and trustee and provisions restricting the individual right of action of bondholders. Within the limits of this chapter, the board may provide by resolution or in the trust indenture for the payment of the proceeds of the sale of the bonds to an officer, board, or depository as it determines for the custody of them and for the method of disbursement, with safeguards and restrictions that it determines.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-23

Tax levy by city to pay lease rental

Sec. 23. (a) The legislative body of a city that has entered into an approved lease contract under this chapter shall annually levy a tax sufficient to produce each year the necessary revenues that, with other available money, are sufficient to pay the lease rental provided to be paid in the lease from taxes.

(b) In fixing and determining the amount of the necessary levy to pay lease rental payable from taxes, the legislative body may take into consideration amounts that have been transferred from the net revenues of the convention center to a fund for payment of lease rental. This chapter does not relieve the city from the obligation to pay from taxes any lease rental payable from taxes if other funds are not available for that purpose. The tax levies are reviewable by other bodies vested by statute with authority to ascertain that the levies are

sufficient to raise the amount that, with other money available, will be sufficient to meet the rental which under the lease contract is payable from taxes. The annual lease rental shall be paid semiannually to the authority or to the corporate trustee under any trust indenture following settlements of tax collections.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-24

Tax exemption

Sec. 24. All:

- (1) property owned by the authority;
- (2) revenues of the authority; and
- (3) bonds or other securities issued by the authority, the interest on them, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of interest and proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.21-1990, SEC.59; P.L.254-1997(ss), SEC.36.

IC 36-10-10-25

Handling and expenditure of funds; audit; employment of construction manager; surety bonds of officers and employees

Sec. 25. (a) Unless provided otherwise, all funds coming into possession of the authority shall be deposited, held, and secured or invested in accordance with the general statutes relating to the handling of public funds. The handling and expenditure of funds coming into possession of the authority is subject to audit and supervision by the state board of accounts. All contracts for construction and equipment of any building shall be let in accordance with the general statutes relating to public contracts.

(b) The board may employ a construction manager in connection with the project in the same manner as other professional advisers are employed.

(c) Any officer or employee of the authority authorized to receive, disburse, or in any way handle funds or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount determined by the board. The bond shall be conditioned upon the faithful performance of his duties and the accounting for all money and property that may come into his hands or under his control. The cost of the bonds shall be paid out of funds of the authority.

(d) The records of the authority are public records.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-26

Liquidation; procedure

Sec. 26. An authority may be liquidated after redemption of all of its securities, payment of all of its debts, and termination of all of its leases if the board files a report with the judge of the circuit court showing those facts and stating that liquidation would be in the best public interest. If the court finds those facts to be true, it shall make an order book entry ordering the authority liquidated.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-27**Construction of addition to convention center by city; law applicable; financing**

Sec. 27. The city may construct an addition to the convention center leased by it under this chapter. The construction of an addition is subject to all statutes generally applicable to the construction of an addition to a city building owned by a city. In order to provide money for such purposes, a city may issue its general obligation bonds or appropriate money from its general fund or from any other funds or money available that could be used for such purposes as if the building were owned instead of leased by the city.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-28**Additions to convention center; party wall agreements**

Sec. 28. A city and an authority that enter into a lease under this chapter may enter into party wall agreements or other agreements concerning the attaching of an addition or additions to a convention center. The agreement shall be recorded in the office of the recorder of the county in which the building is located. The agreement may provide for an easement or license to construct a part of an addition over or above any building.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-29**Civic center board of managers; creation; duties; organization**

Sec. 29. (a) The city legislative body shall adopt an ordinance creating a city board of nine (9) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain:

- (1) the convention center and its programs; and
- (2) any other public facility owned or leased by the city or by an agency of it.

(b) A person appointed to the board of managers must be at least eighteen (18) years of age and a resident of the county in which the city is located. Five (5) of the managers shall be appointed by the city executive, and four (4) of the managers shall be appointed by the city legislative body. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), initial terms of the managers appointed by the executive are as follows:

- (1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) Two (2) managers for terms of three (3) years.

(d) Notwithstanding subsection (b), the initial terms of the managers appointed by the city legislative body are as follows:

(1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) One (1) manager for a term of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers may not receive salaries, but shall be reimbursed for any expenses necessarily incurred in the performance of their duties.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum. *As added by Acts 1982, P.L.218, SEC.4.*

IC 36-10-10-30

Board of managers; powers

Sec. 30. The board of managers may supervise, manage, operate, and maintain the convention center and its programs. It may do the following:

(1) Receive and collect money due to or otherwise related to the convention center; employ an executive manager, an associate manager, and other agents and employees that are considered necessary for the fulfillment of its duties, and fix the compensation of all employees. However, a contract of employment or other arrangement must be terminable at the will of the board of managers, except that a contract may be entered into with an executive manager for a period not exceeding four (4) years and subject to extension or renewal for similar or shorter periods.

(2) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of the convention center.

(3) Lease a part of the convention center from time to time to any association, corporation, or individual, with or without the right to sublet.

(4) Fix charges and establish rules governing the use and operation of the convention center.

(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations; accept funds, loans, or advances on the terms and conditions that the board of managers considers necessary or desirable from the federal government, the state, or any of their agencies or political subdivisions and, to the extent that surplus

earnings may be made available for the purposes of this chapter, any available surplus earnings of the public utilities owned and operated by the city.

(6) Receive and collect all money due to the use or leasing of the convention center or any part of it and from concessions or other contracts and expend those monies for proper purposes.

(7) Provide coverage for its employees under IC 22-3 and IC 22-4.

(8) Purchase public liability and other insurance that it considers necessary.

(9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including enforcement of them.

(10) Maintain and repair the convention center and employ a building superintendent and other employees that are necessary to properly maintain the convention center.

(11) Prepare and publish descriptive materials and literature relating to the convention center and specifying the advantages of the convention center; do all other acts and things that the board of managers considers necessary to promote and publicize the convention center and serve the commercial, industrial, and cultural interests of Indiana and all its citizens by the use of the convention center; and assist and cooperate with the state and other public, governmental, and private agencies and groups of citizens for those purposes.

(12) Supervise, manage, operate, and maintain any other public facility owned or leased by the city or by an agency of it when so directed by a resolution adopted by the city legislative body and approved by the city executive.

(13) Exercise other powers and perform other duties not in conflict with this chapter that are specified by ordinance of the city legislative body.

(14) Perform all other acts necessarily incidental to its duties and the powers listed in this section.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.8-1993, SEC.521.

IC 36-10-10-31

Board of managers; preparation and approval of annual budget; approval of expenditures

Sec. 31. (a) The board of managers shall prepare a budget for each calendar year governing the projected operating expenses, the estimated income, and reasonable reserves. It shall submit that budget for review, approval, or addition to the city legislative body.

(b) The board of managers may not make expenditures except as provided in the approved budget, and all additional expenditures are subject to approval by the city legislative body.

(c) Payments to the users of the convention center or a part of it that constitute a contractual share of box office receipts are not considered an operating expense or an expenditure within the

meaning of this section, and the board of managers may make those payments without approval of the city executive or of the city legislative body.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-32

Board of managers; controller and assistant controller; duties

Sec. 32. (a) The city controller shall serve as controller of the board of managers and is the official custodian of all funds and assets of the board of managers for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant controller to act as auditor for the board of managers.

(b) The assistant controller is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the city controller and the lesser powers and duties that the board of managers prescribes. The assistant controller, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant controller shall keep an accurate account of:

- (1) all money due the convention center and the board of managers; and
- (2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principals and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant controller shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the city controller or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the city has entered into any agreement to lease convention center facilities from the civic center building authority, the controller or assistant controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant controller shall submit to the board of managers at least annually a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the disbursements were made. The board of managers may require that the report be prepared by a designated,

independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-33

Board of managers; conflicts of interest

Sec. 33. Persons serving on the board of managers shall disclose any pecuniary interest, direct or indirect, in any employment, financing agreement, or other contract made under this chapter before any action is taken on it by the board of managers. Any manager having a pecuniary interest may not vote on the matter. Real property acquired under this chapter in which a manager has a pecuniary interest may be acquired by the board of managers only by gift or condemnation.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-11

Chapter 11. Gary Building Authority

IC 36-10-11-1

Application of chapter

Sec. 1. This chapter applies to a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.12-1992, SEC.197; P.L.170-2002, SEC.177; P.L.119-2012, SEC.242.

IC 36-10-11-2

Definitions

Sec. 2. As used in this chapter:

"Authority" refers to a building authority created under this chapter.

"Building" means a structure or a part of a structure used for a civic center or a facility that is owned by the city and used by a professional sports franchise, including the site, landscaping, parking, heating facilities, sewage disposal facilities, and other related appurtenances and supplies necessary to make the building suitable for use and occupancy.

"Governmental entity" means a state agency, state university, or political subdivision.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.136.

IC 36-10-11-3

Creation; procedure; issuance of general obligation bonds by city for construction of civic center prohibited

Sec. 3. (a) The city legislative body may adopt an ordinance to create a separate municipal corporation under this chapter known as the "_____ Building Authority" (inserting the name of the city) to finance, construct, equip, operate, and lease land and buildings to the governmental entities within the county in which the authority is created.

(b) The clerk of the city shall certify a copy of the ordinance and file the copy with the county recorder of the county in which the authority is created. When certified and filed, the ordinance is evidence in a civil action of the creation of the authority.

(c) The city may not issue general obligation bonds of the city to finance the cost, in whole or in part, of the construction or acquisition of any building for use as a civic center. For purposes of this section, the city includes any governmental entity that contains any territory of the city.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.2-1995, SEC.139.

IC 36-10-11-4

Trustees; appointment; terms; vacancies; oath

Sec. 4. (a) Within fifty (50) days after the adoption of the ordinance, the city executive shall appoint three (3) trustees and the city legislative body shall appoint two (2) trustees of the authority. All of the trustees must be at least twenty-one (21) years of age and residents of the city for at least five (5) years before appointment.

(b) Initial terms of the trustees are as follows:

- (1) The legislative body's appointees for terms of two (2) years.
- (2) One (1) of the executive's appointees for a term of three (3) years.
- (3) Two (2) of the executive's appointees for terms of four (4) years.

At the expiration of a term, the appointing authority shall appoint a successor for a four (4) year term. Each trustee serves until his successor is appointed and qualified.

(c) If a trustee dies, resigns, ceases to be a resident of the city, fails to qualify for office within ten (10) days after he receives notice of his appointment, or is removed for cause, the appointing authority shall appoint another person as trustee for the remainder of that term.

(d) Each trustee, before entering upon his duties, shall take and subscribe an oath of office to be endorsed upon his certificate of appointment. The certificate shall be filed with the city clerk.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-5

Trustees; removal; procedure

Sec. 5. A trustee may be removed from office for good cause by an order of the judge of the circuit or superior court of the county in which the authority is located, subject to the procedure of this section. A complaint stating the preferred charges may be filed by any person against a trustee. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-6

Trustees; meetings; selection of directors and officers

Sec. 6. The trustees originally appointed shall meet within thirty (30) days after their appointment. At this meeting the trustees shall appoint the directors of the authority and shall elect the following officers from among their number:

- (1) President.
- (2) Vice president.
- (3) Secretary.

The officers serve until the first Monday in January following their election. The trustees shall meet annually on the first Monday in January to reorganize, to appoint directors, and to transact business. Additional meetings may be called by the president or set at regular intervals by the trustees.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-7**Trustees; rules; reimbursement of expenses**

Sec. 7. The trustees may adopt the rules that they consider necessary for the proper conduct of their proceedings. Trustees serve without pay but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-8**Trustees; conflicts of interest**

Sec. 8. A trustee may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction in which any trustee has a pecuniary interest is void.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-9**Trustees; appointment of board of directors; qualifications; tenure; conflicts of interest**

Sec. 9. The trustees shall appoint by majority vote a board of five (5) directors. The directors must meet the same qualifications, subscribe to the same oath, and receive the same reimbursements as trustees. The directors serve for one (1) year following their appointment and until their successors are appointed and qualified. A director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any transaction in which any director has a pecuniary interest is void. Vacancies shall be filled by the trustees. The trustees may remove a director for cause at any time.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-10**Board of directors; meetings; officers; bylaws; quorum; approval of actions**

Sec. 10. (a) Not later than thirty (30) days after the directors are appointed, and on the first Monday of each following February they shall hold a meeting for the purpose of organization. They shall elect the following officers from among their members:

- (1) President.
- (2) Vice president.
- (3) Secretary.
- (4) Treasurer.

The officers shall perform the duties usually pertaining to those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The directors may adopt bylaws and rules necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the funds and property of the authority. In addition to the annual meeting, other regular and special meetings shall be held at the times that they determine and upon public notice that they fix, either by resolution or in accordance with the provisions

of the bylaws. A majority of the directors constitutes a quorum. A majority is necessary to authorize any action.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-11

Preliminary expenses; payment; reimbursement

Sec. 11. (a) All necessary preliminary expenses actually incurred in the:

- (1) making of surveys;
- (2) estimates of cost and receipts;
- (3) employment of engineers or other employees;
- (4) giving of notices;
- (5) taking of options; and
- (6) all other expenses necessary to be paid before the issue and delivery of bonds or the negotiation of the loan under this chapter;

may be met and paid out of funds provided by the city from funds on hand or derived from taxes levied for that purpose.

(b) The funds of the city from which payments are made shall be fully reimbursed and repaid by the board out of the first proceeds of the sale of bonds or the loan negotiated by the authority before any other disbursements are made. The amount advanced shall be a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until the loan has been repaid.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-12

Board of directors; powers

Sec. 12. The board of directors may finance, construct, and lease buildings for the joint or separate use of one (1) or more of the governmental entities within the county in which the authority has been created. The board of directors also may:

- (1) sue and be sued;
- (2) appropriate, purchase, lease, rent, and hold any land, materials, and personal property in connection with buildings constructed or to be constructed under this chapter;
- (3) acquire by gift, devise, or bequest real and personal property and hold, use, expend, or dispose of that property for the purposes authorized by this chapter;
- (4) enter upon any lots or lands for the purpose of surveying or examining them for the purposes of this chapter;
- (5) collect rentals payable as provided for in a lease; and
- (6) make and enter into all contracts and agreements necessary or incidental for the performance of its duties and the execution of its powers under this chapter.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-13

Lease to governmental entity of property controlled by authority; sublease; term; renewal

Sec. 13. (a) A governmental entity within the county and the authority may enter into a lease for all or part of a building under the control of the authority. A governmental entity may also sublease the leased premises to other governmental entities within the county.

(b) A lease may be entered into before the actual acquisition of a site and the construction of the building. A lease may not provide for the payment of any lease rental by the lessee until the building is ready for occupancy.

(c) A lease or sublease may not be for a period longer than forty (40) years, but may be renewed for a maximum of forty (40) years. An option to renew may be included in the original lease.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-14

Lease; option to purchase

Sec. 14. (a) An option to purchase on the dates of each year fixed in the lease, before the expiration of the lease, may also be included in the original lease. The price must be computed by a method set out in the lease. The option may be given to one (1) or more lessees acting jointly or severally.

(b) A lease may not obligate a governmental entity to purchase the leased building or pay creditors or bondholders of the authority.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-15

Lease; notice and hearing; authorization of execution

Sec. 15. (a) When the authority and a governmental entity have agreed upon the lease, and before the final execution of the lease, a notice shall be published under IC 5-3-1 of a hearing to be held by the fiscal body of the governmental entity. The hearing shall be held on a day at least ten (10) days after the publication of notice. The proposed lease and any plans and specifications must be open to inspection by the public during the ten (10) day period and at the hearing.

(b) The notice must state:

- (1) the date, place, and time of the hearing;
- (2) a brief summary of the principal terms of the lease, including the character and location of the property to be leased;
- (3) the estimated lease rental to be paid; and
- (4) the period of the lease.

(c) All interested persons are entitled to be heard at the hearing concerning the necessity for the execution of the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date fixed before adjournment. Following the hearing the fiscal body may either:

- (1) authorize the execution of the original lease; or
- (2) authorize the execution of the lease with modifications that are agreed to by the authority.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-16

Lease; execution; notice; limitation on annual rental; approval by department of local government finance; transfer of net revenue

Sec. 16. (a) The lease shall be executed on behalf of the governmental entity by an officer authorized by law to execute contracts for the entity and on behalf of the authority by both the president or vice president of the board and the secretary of the board of directors.

(b) Notice of the execution of the lease shall be given by the governmental entity by publication as provided in IC 5-3-1.

(c) A lease may not be executed with annual lease rental exceeding an aggregate of two hundred seventy-five thousand dollars (\$275,000) unless the fiscal body of the lessee governmental entity finds that the estimated annual net income to the lessee governmental entity from the civic center, plus any other nonproperty tax funds made available annually for the payment of the lease rental, will not be less than the amount of the excess.

(d) The lease is subject to approval by the department of local government finance under IC 6-3.5. The lease may be executed before approval; however, if the department of local government finance does not approve the lease, it is void. The department of local government finance may not approve the lease under IC 6-3.5-1.1-8 unless it finds that the condition prescribed in subsection (c) is satisfied.

(e) All net revenues of the leased building, together with any other funds made available for the payment of lease rental, shall be transferred at least annually by the lessee to a fund for payment of lease rental.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.73-1983, SEC.23; P.L.90-2002, SEC.525.

IC 36-10-11-17

Lease; objections; petition; certification to department of local government finance; hearing; determination

Sec. 17. (a) Ten (10) or more taxpayers whose tax rate will be affected by the lease may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease. The petition must set forth their objections and the facts showing:

- (1) that the lease is unnecessary or unwise; or
- (2) that the lease rental is not fair and reasonable.

(b) Upon the filing of a petition, the county auditor shall certify a copy, together with other data that is necessary in order to present the questions involved, to the department of local government finance. Upon receipt of a certified petition and information, the department of local government finance shall set a time and place for the hearing of the matter. The hearing shall be held at least five (5) but not more than fifteen (15) days after receipt of the petition by the department of local government finance. Notice of the hearing shall be given by the department of local government finance to the governmental

entity and to the first ten (10) petitioners at least five (5) days before the date of the hearing. The hearing shall determine the necessity of the lease and whether the lease rental is fair and reasonable.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.526.

IC 36-10-11-18

Lease; actions to contest validity or enjoin performance; limitation

Sec. 18. An action to contest the validity of the lease or to enjoin the performance of the lease may not be brought later than thirty (30) days after publication of notice of the execution of the lease or thirty (30) days after the decision of the department of local government finance, whichever is later.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.527.

IC 36-10-11-19

Sale or lease of land by governmental entity to authority

Sec. 19. (a) A governmental entity or entities desiring to have buildings erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the building to the governmental entity.

(b) The governmental entity may also grant an option to the authority to purchase the land within six (6) months after the expiration of the lease on the building if the governmental entity or entities has not exercised an option to purchase the building within the terms of the contract of lease. If the option price on the land is not fixed in the original contract of lease, then the price to be paid for the land under that option shall be determined by appraisal to be made by three (3) appraisers residing in the county appointed by the judge of the circuit court of the county. A sale or lease of land by a governmental entity to the authority shall be authorized by the fiscal body of the entity by ordinance or resolution, which shall be entered in the official records of the fiscal body. The authorization shall be given concurrently with the authorization by the governmental entity of a lease by it of the particular building, or part of it, to be constructed wholly or in part on the land. The deed or lease shall be executed on behalf of the entity by the officer or officers authorized by law to enter into contracts on behalf of the entity and on behalf of the authority by the president or vice president and secretary of the board of directors.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-20

Revenue bonds; issuance; resolution

Sec. 20. (a) In order to procure funds to pay the cost of a building to be built or improved under this chapter, and to repay advances for preliminary expenses made to the authority by the governmental entity, the board of directors may issue revenue bonds of the

authority. The bonds are payable solely from the income and revenues of the particular building financed from the proceeds of the bonds.

(b) The revenue bonds shall be authorized by resolution of the board, bear interest payable semiannually, and mature serially, either annually or semiannually, at the times that are determined by the resolution of the board authorizing the bonds. The maturities of the bonds may not extend over a period longer than the period of the lease of the building for which the bonds are issued. The bonds may and all bonds maturing after ten (10) years from the date of issuance shall be made redeemable before maturity at the option of the authority, to be exercised by the board, at par value together with the premiums and under the terms and conditions that are fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium.

(c) The resolution must determine the form of the bonds, including the interest coupons to be attached, and must fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which must be at a state or national bank or trust company within Indiana or may be at one (1) or more state or national banks or trust companies outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of the bonds in the name of the owner as to principal alone.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-21

Bonds; execution and sale

Sec. 21. (a) The bonds shall be executed by the president of the board, and the corporate seal of the authority shall be affixed and attested by the secretary of the board. The interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer on them. The bonds shall be sold by the board at public sale and for not less than the par value. Notice of sale shall be published in accordance with IC 5-3-1.

(b) The board shall award the bonds to the highest bidder as determined by computing the total interest on the bonds from the date of issue to the dates of maturity and deducting the premium bid, if any. If the bonds are not sold on the date fixed for the sale, the sale may be continued from day to day until a satisfactory bid has been received.

(c) Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds.

(d) Before the preparation of definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The total amount of bonds issued by the authority under this section, when added to any loan or loans negotiated under section 22 of this chapter, may not exceed three million dollars (\$3,000,000).

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-22

Loans; procedure

Sec. 22. (a) In lieu of authorizing and selling bonds as provided in this section, the board may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of procuring the required funds. The resolution must set out the total amount of the loan desired and the approximate dates on which funds will be required and the amounts of them. The resolution must also set out the terms, conditions, and restrictions relative to the proposed loan or to the submission of proposals that the board considers advisable. Before the consideration of proposals for the making of a loan, a notice shall be published once each week for two (2) weeks in a newspaper published in the county and a newspaper published in the city of Indianapolis setting out the amount and purpose of the proposed loan and a brief summary of other provisions of the resolution, including the time and place where proposals will be considered. The board may accept the proposal that in its judgment is the most advantageous to the authority.

(b) The total amount of loans negotiated by the authority under this section, when added to the amount of bonds issued under section 21 of this chapter, may not exceed three million dollars (\$3,000,000).
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-23

Application of bond and loan proceeds; lien

Sec. 23. All money received from the sale of bonds or loans negotiated under this chapter, after reimbursement to the city of all amounts advanced for preliminary expenses as provided in section 11 of this chapter, shall be applied to the payment of the costs of buildings and improvements for which the bonds were issued or the loan was negotiated, including incidental expenses and interest during construction. A lien exists on all monies until so applied in favor of the holders of the bonds, the lenders, or the trustees.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-24

Bonds or loans; trust indenture

Sec. 24. (a) In the discretion of the board of directors, the bonds or loan may be secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana having trust powers. The trust indenture may mortgage all or part of the land, buildings, or both for which the bonds are issued or the loan negotiated. The trust indenture may contain the provisions for protecting and enforcing the rights and remedies of the bondholders or lenders that are reasonable and proper, including covenants setting forth the duties of the authority and board of directors in relation to the construction of the buildings and improvement, operation, repair, maintenance, and insurance of them, and the custody, safeguarding, and application of all money received or to be received by the authority due to the building

financed by the issuance of the bonds or the negotiation of the loan. The indenture may set forth the rights and remedies of the bondholders or lenders and trustee and provisions restricting the individual right of action of bondholders or lenders.

(b) Within the limits of this chapter, the board of directors may provide by resolution or in the trust indenture for the payment of the proceeds of the sale of the bonds or the negotiation of the loan to an officer, board, or depository that it determines for the custody of them and for the method of disbursement, with safeguards and restrictions that it determines.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-25

Refunding revenue bonds; issuance

Sec. 25. (a) To procure money to refund bonds issued under section 20 of this chapter, the board of directors may issue refunding revenue bonds. The refunding bonds may not be issued unless:

- (1) the issuance will result in a savings of interest cost to the authority; or
- (2) the issuance will permit a reduction in the lease rental payable by the lessee of the building financed from the bond proceeds being refunded.

(b) The refunding bonds are subject to the following:

- (1) The issuance may not exceed the sum of:
 - (A) the principal of the bonds being refunded;
 - (B) any premium required to be paid upon their redemption;
 - (C) any interest accrued or to accrue to the date of their redemption; and
 - (D) any expenses that the board estimates will be incurred in the issuance of the refunding bonds.
- (2) The bonds may be issued at any time not more than six (6) years prior to the redemption date of the bonds being refunded.
- (3) Principal is not payable on the refunding bonds until after the redemption date.
- (4) Until the redemption of the bonds being refunded, the interest on the refunding bonds is payable solely from the money placed in escrow in accordance with section 26 of this chapter. Interest or other income earned on the investment of the funds and the principal and interest on the refunding bonds constitute a lien only against the escrowed money.
- (5) Upon redemption of all the bonds being refunded, the principal and interest on the refunding bonds is payable solely from and constitute a lien only against the income and revenues of the buildings financed from the proceeds of the bonds being refunded and any other money deposited in the sinking fund for the payment of the refunding bonds.

(c) The refunding bonds shall be issued in the same manner as bonds are issued under section 20 of this chapter and may be secured by a trust indenture as provided in section 24 of this chapter.

(d) An action to contest the validity of the refunding bonds may

not be brought after the fifth day following the receipt of bids for the bonds.

(e) The trust indenture securing the refunding bonds may provide for the transfer by the authority to the sinking fund established by the trust indenture of all or any part of the balance in the sinking fund established in the trust indenture securing, or resolution providing for the issuance of, the bonds being refunded, the transfer to be made concurrently with the redemption of all the bonds being refunded.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-26

Refunding bonds; application of proceeds

Sec. 26. (a) The proceeds of the refunding bonds issued under section 25 of this chapter shall be placed in escrow and applied with any other available money to the payment on the date selected for redemption of the principal, accrued interest, and any redemption premiums of the bonds being refunded. In addition, if provided or permitted in the resolution authorizing the issuance of the refunding bonds or in the trust indenture securing them, the proceeds may also be applied to the payment of any interest on the refunding bonds and any costs of refunding. Pending application, the escrowed proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States, which must mature, or which must be subject to redemption by the holder of them at the option of the holder, not later than the respective dates when the proceeds, together with the accruing interest, will be required for the purposes intended.

(b) In lieu of those investments, all or part of the proceeds may be placed in interest bearing time certificates of deposit with the bank that the board designates. Other similar arrangements may be made with the bank that will assure that the proceeds, together with the accruing interest, will be available when required for the purposes intended, but time certificates of deposit or other similar arrangements must be secured to their full amount by direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of the type permitted for direct investment of the escrow fund.

(c) All interest or other income earned on these investments must first be used to pay the interest on the refunding bonds as it becomes due. Any excess becomes a part of and shall be held in the escrow fund. Any balance remaining in the escrow fund after redemption of all the bonds being refunded shall be deposited in the sinking fund established for the payment of the principal and interest on the refunding bonds.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-27

Refunding bonds; authority to amend lease

Sec. 27. (a) In connection with the issuance of refunding bonds, the authority and the lessee, or lessees, of the building, or buildings,

financed from the proceeds of the bonds being refunded may enter into an amendment to the lease modifying the lease:

- (1) to provide for a reduction in the amount of lease rental payable by the lessee, or lessees, to be effective upon the redemption of the bonds being refunded;
- (2) to provide for an extension of the time set forth in the lease before the option of the lessee, or lessees, to purchase may be exercised to the time that is agreed upon between the authority and the lessee or lessees; or
- (3) to provide that the lease rental payable by the lessee, or lessees, after the redemption of all the bonds being refunded is payable to the trustee under the trust indenture securing the refunding bonds.

(b) Proceedings or actions by the lessee and approval by any board, commission, or agency are not required for refunding. The refunding authorized in this chapter does not affect the obligation of the lessee, or lessees, to pay the lease rental under the lease of the building or buildings, except to the extent the lease rental may be reduced by any amendment as authorized by this section.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-28

Refunding bonds; redemption

Sec. 28. For the purposes of sections 25, 26, and 27 of this chapter, bonds are redeemed on the date selected for redemption if:

- (1) the full amount necessary to effect complete redemption has been deposited in accordance with the trust indenture securing or resolution providing for the issuance of the bonds; and
- (2) all action necessary to redeem the bonds has been taken so that the bonds are no longer considered outstanding under the trust indenture or resolution and are no longer payable from the income and revenues of the particular building, or buildings, financed from the proceeds of the bonds.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-29

Governmental entity; tax levy to pay lease rental

Sec. 29. (a) The fiscal body of a governmental entity that has entered into an approved lease under this chapter shall annually levy a tax sufficient to produce each year the necessary revenues that, with other available money, are sufficient to pay the lease rental payable under the lease.

(b) In fixing and determining the amount of the necessary levy to pay the lease rental, the fiscal body may take into consideration amounts that have been transferred to the fund for payment of the lease rental under section 16(e) of this chapter. This chapter does not relieve the governmental entity from the obligation to pay from taxes the lease rental or part of it if other funds are not available for that purpose. The tax levies are reviewable by other bodies vested by statute with authority to ascertain that the levies are sufficient to raise

the amount that, with other money available, will be sufficient to meet the rental payable under the lease.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-30

Tax exemption

Sec. 30. All:

- (1) property owned by the authority;
- (2) revenues received by the authority; and
- (3) bonds or other securities issued by the authority, including the interest on them;

are exempt from taxation in Indiana.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-31

Handling of funds; audit; contract requirements; surety bonds of employees

Sec. 31. (a) Authority funds shall be handled in the same manner as other public funds and shall be audited by the state board of accounts. Contracts let by the authority shall be let in accordance with the general statutes relating to public contracts.

(b) Any employee of the authority authorized to receive or disburse funds or negotiable securities of the authority shall execute a bond payable to the state conditioned upon the faithful performance of his duties and the accounting for all money and property that may come under his control. The cost of the bonds shall be paid out of funds of the authority.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-32

Civil actions against authority; venue

Sec. 32. A civil action against the authority must be brought in the circuit or superior court of the county in which the authority is located.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-33

Civic center board of managers; creation; organization

Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers

serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) One (1) manager for a term of two (2) years.
- (3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) Two (2) managers for terms of two (2) years.
- (3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers shall be reimbursed for any expenses necessarily incurred in the performance of their duties. The fiscal body of the lessee may adopt an ordinance providing for the payment of a salary or a per diem to a manager who does not hold another lucrative elective or appointive office.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum. *As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.137; P.L.7-2006, SEC.1.*

IC 36-10-11-34

Board of managers; powers

Sec. 34. The board of managers may do the following:

- (1) Receive and collect money due to or otherwise related to a building; employ an executive manager, an associate manager, and other agents and employees that are considered necessary for the fulfillment of its duties, and fix the compensation of all employees. However, a contract of employment or other arrangement must be terminable at the will of the board of managers, except that a contract may be entered into with an executive manager for a period not exceeding four (4) years and subject to extension or renewal for similar or shorter periods.
- (2) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of the a building.
- (3) Lease a part of a building from time to time to any association, corporation, or individual, with or without the right to sublet.
- (4) Fix charges and establish rules governing the use and operation of a building.

(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations; accept funds, loans, or advances on the terms and conditions that the board of managers considers necessary or desirable from the federal government, the state, or any of their agencies or political subdivisions.

(6) Receive and collect all money due to the use or leasing of a building or any part of it and from concessions or other contracts and expend that money for proper purposes.

(7) Provide coverage for its employees under IC 22-3 and IC 22-4.

(8) Purchase public liability and other insurance that it considers necessary.

(9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including enforcement of them.

(10) Maintain and repair a building and employ a building superintendent and other employees that are necessary to properly maintain a building.

(11) Prepare and publish descriptive materials and literature relating to a building and specifying the advantages of a building; do all other acts and things that the board of managers considers necessary to promote and publicize a building and serve the commercial, industrial, and cultural interests of Indiana and all its citizens by the use of a building; and assist and cooperate with the state and other public, governmental, and private agencies and groups of citizens for those purposes.

(12) Supervise, manage, operate, and maintain any other public facility owned or leased by the lessee governmental entity or by an agency of it when so directed by a resolution adopted by the fiscal body of the entity.

(13) Exercise other powers and perform other duties not in conflict with this chapter that are specified by ordinance or resolution of the fiscal body of the lessee governmental entity.

(14) Perform all other acts necessarily incidental to its duties and the powers listed in this section.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.8-1993, SEC.522; P.L.178-2002, SEC.138.

IC 36-10-11-35

Board of managers; preparation and review of annual budget; approval of expenditures

Sec. 35. (a) The board of managers shall prepare a budget for each calendar year governing the projected operating expenses, the estimated income, and reasonable reserves. It shall submit that budget for review, approval, or addition to the fiscal body of the lessee governmental entity.

(b) The board of managers may not make expenditures except as provided in the approved budget, and all additional expenditures are subject to approval by the fiscal body of the entity.

(c) Payments to the users of a building or a part of it that constitute a contractual share of box office receipts are not considered an operating expense or an expenditure within the meaning of this section, and the board of managers may make those payments without approval.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.139.

IC 36-10-11-36

Board of managers; controller and assistant controller; duties

Sec. 36. (a) The fiscal officer of the lessee governmental entity shall act as controller of the board of managers and is responsible for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant to act as auditor for the board of managers.

(b) The assistant is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the controller and the lesser powers and duties that the board of managers prescribes. The assistant, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant shall keep an accurate account of:

- (1) all money due a building and the board of managers; and
- (2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principles and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the controller or financial officer or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the lessee governmental entity has entered into any agreement to lease building facilities from the authority, the controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant shall submit to the board of managers at least annually a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the disbursements were made. The board of managers may require that the report be prepared by a designated, independent certified public

accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.140.

IC 36-10-11-37

Board of managers; conflicts of interest

Sec. 37. Persons serving on the board of managers shall disclose any pecuniary interest, direct or indirect, in any employment, financing agreement, or other contract made under this chapter before any action is taken on it by the board of managers. Any manager having a pecuniary interest may not vote on the matter. Real property acquired under this chapter in which a manager has a pecuniary interest may be acquired by the board of managers only by gift or condemnation.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-12

Chapter 12. Children's Museum in Marion County

IC 36-10-12-1

"Board of school trustees"

Sec. 1. As used in this chapter, "board of school trustees" means the school board of an incorporated town.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-2

"Children's museum"

Sec. 2. As used in this chapter, "children's museum" means a museum located in a county containing a consolidated city, if the museum is:

(1) incorporated under the Indiana law without stock and without purpose of gain to the museum's members; and

(2) organized to maintain in the county a permanent museum containing objects and items:

(A) of interest primarily to children; and

(B) for the encouragement and education of children.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-3

"Incorporated town"

Sec. 3. As used in this chapter, "incorporated town" means an incorporated town located in a county containing a consolidated city.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-4

"Township"

Sec. 4. As used in this chapter, "township" means a school township that is located in a county containing a consolidated city.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-5

"Township board"

Sec. 5. As used in this chapter, "township board" means the township board of a township.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-6

"Township trustee"

Sec. 6. As used in this chapter, "township trustee" means the duly elected trustee of the civil township in which a school township is located.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-7

Financial assistance of township trustee; amount; budget and appropriation

Sec. 7. (a) With the consent of the township board, the township trustee may provide financial assistance to a children's museum. The assistance shall be:

- (1) paid from the funds of the school township;
- (2) budgeted and appropriated as provided by law; and
- (3) in an amount each year not to exceed the product of twenty-five cents (\$0.25) multiplied by the ADA (as defined in IC 20-18-2-1.5(a)) of children enrolled in grades 1 through 8 in the public schools of the township as reported in the last preceding annual report to the state superintendent of public instruction.

(b) The assistance under subsection (a) is payable annually. The trustee and the township board may continue the assistance annually if the board of trustees or other governing body of the children's museum has accepted by resolution the provisions of this chapter and has filed a certified copy of the resolution with the township trustee of the township before the date of the first payment.

As added by P.L.1-2005, SEC.47. Amended by P.L.2-2006, SEC.193.

IC 36-10-12-8

Financial assistance of board of school trustees; amount

Sec. 8. (a) The board of school trustees of a town may provide financial assistance to a children's museum. The assistance shall be:

- (1) paid from the funds of the school town; and
- (2) in an amount each year not to exceed the product of twenty-five cents (\$0.25) multiplied by the ADA (as defined in IC 20-18-2-1.5(a)) of children enrolled in grades 1 through 8 in the public schools of the town as reported in the last preceding annual report to the state superintendent of public instruction.

(b) The assistance under subsection (a) is payable annually. The board of school trustees may continue the assistance annually if the board of trustees or other governing body of the children's museum has accepted by resolution the provisions of this chapter and has filed a certified copy of the resolution with the board of school trustees before the date of the first payment.

As added by P.L.1-2005, SEC.47. Amended by P.L.2-2006, SEC.194.

IC 36-10-12-9

Prerequisites for financial assistance

Sec. 9. (a) A children's museum is not entitled to receive financial assistance under sections 7 and 8 of this chapter until the board of trustees or other governing body of the museum agrees with the township trustee or board of school trustees, by proper resolution, to do the following:

- (1) To allow the county superintendent of schools of the county to attend all meetings of the board of trustees or other governing body of the children's museum so that the superintendent is advised as to the work done and proposed to be done by the children's museum.
- (2) To allow the township trustees of a township or board of

school trustees of a town furnishing financial assistance to the children's museum to nominate individuals eligible for membership on the board of trustees or other governing body of the museum. The children's museum must elect one (1) member from the list or lists of individuals nominated as a member of the board of trustees or other governing body of the children's museum. The member elected under this subdivision represents all townships and towns.

(3) To grant free admission to the children's museum and galleries to all students and teachers of a township or town that furnishes financial assistance to the children's museum.

(4) To allow the use, at reasonable times and in reasonable ways, of the plant, equipment, and facilities of the children's museum to educate the students of the township or town.

(5) To allow the use of the services of the personnel of the children's museum, at reasonable times and in reasonable ways, under the direction of the children's museum, if the services are consistent with the regular established duties of the personnel.

(6) To allow the loan of suitable and available objects and items from the children's museum's collection to a school of the township or town to aid and supplement the curriculum of the school.

(b) A copy of the resolution must be filed in the office of the township trustee or with the secretary of the board of school trustees before the children's museum receives financial assistance under this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-10

New resolution for financial assistance not required

Sec. 10. After a children's museum qualifies to receive financial assistance from a township or town under this chapter, the board of trustees or the governing body of the children's museum is not required to adopt new resolutions each year. Each original resolution continues and remains in full force and effect until the original resolution is revoked or rescinded by another resolution that is certified and filed under this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-11

Duration of entitlement of benefits

Sec. 11. A children's museum is entitled to receive the benefits provided under this chapter for as long as the board of trustees or governing body of the children's museum performs or is willing to perform the duties set forth in section 9 of this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-13

Chapter 13. Cultural Institutions

IC 36-10-13-1

"Art association"

Sec. 1. As used in this chapter, "art association" means a nonprofit corporation organized under Indiana law to:

- (1) maintain a permanent art gallery; and
- (2) promote education in the fine and industrial arts;

that owns, possesses, or maintains property for those purposes.

As added by P.L.1-2005, SEC.48.

IC 36-10-13-2

"Cultural institution"

Sec. 2. As used in this chapter, "cultural institution" means a historical society, an art association, or other nonprofit corporation organized under Indiana law to further the cultural development of the public.

As added by P.L.1-2005, SEC.48.

IC 36-10-13-3

"Historical society"

Sec. 3. As used in this chapter, "historical society" means a nonprofit corporation organized under Indiana law to:

- (1) maintain a permanent historical museum; and
- (2) promote a knowledge of local ancestral heritage and custom;

that owns, possesses, or maintains property for those purposes.

As added by P.L.1-2005, SEC.48.

IC 36-10-13-4

School corporations in certain counties; appropriation for historical society authorized

Sec. 4. (a) This section does not apply to a school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The governing body of a school corporation may annually appropriate, from the school corporation's general fund, a sum of not more than five-tenths of one cent (\$0.005) on each one hundred dollars (\$100) of assessed valuation in the school corporation to be paid to a historical society, subject to section 6 of this chapter.

As added by P.L.1-2005, SEC.48. Amended by P.L.119-2012, SEC.243.

IC 36-10-13-5

School corporations in certain counties; tax levy; historical society fund; appropriation for historical society authorized

Sec. 5. (a) This section applies only to a school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) To provide funding for a historical society under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent (\$0.005) on each one hundred dollars (\$100) of assessed valuation in the school corporation.

(c) The school corporation shall deposit the proceeds of the tax in a fund to be known as the historical society fund. The historical society fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for a historical society under this section.

(d) Subject to section 6 of this chapter, the governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to a historical society having facilities in the county.

As added by P.L.1-2005, SEC.48. Amended by P.L.2-2006, SEC.195; P.L.146-2008, SEC.798; P.L.119-2012, SEC.244.

IC 36-10-13-6

Prerequisites for receipt of payment

Sec. 6. Before a historical society may receive payments under sections 4 and 5 of this chapter, the historical society's governing board must adopt a resolution that entitles:

- (1) the governing body of the school corporation to appoint the school corporation's superintendent and one (1) history teacher as visitors who may attend all meetings of the society's governing board;
- (2) the governing body of the school corporation to nominate two (2) individuals for membership on the society's governing board;
- (3) the school corporation to use the society's facilities and equipment for educational purposes consistent with the society's purposes;
- (4) the students and teachers of the school corporation to tour the society's museum, if any, free of charge; and
- (5) the school corporation to borrow artifacts from the society's collection, if any, for temporary exhibit in the schools.

As added by P.L.1-2005, SEC.48.

IC 36-10-13-7

School corporations in certain counties; tax levy; art association fund; appropriation for art association authorized; prerequisites for receipt of payments

Sec. 7. (a) This section applies to school corporations in a county containing a city having a population of:

- (1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000);
- (2) more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);
- (3) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);
- (4) more than one hundred thousand (100,000) but less than one

hundred ten thousand (110,000); or

(5) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(b) To provide funding for an art association under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent (\$0.005) on each one hundred dollars (\$100) of assessed valuation in the school corporation.

(c) The school corporation shall deposit the proceeds of the tax imposed under subsection (b) in a fund to be known as the art association fund. The art association fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for an art association under this section. The governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to an art association having facilities in a city that is described in subsection (a), subject to subsection (d).

(d) Before an art association may receive payments under this section, the association's governing board must adopt a resolution that entitles:

(1) the governing body of the school corporation to appoint the school corporation's superintendent and director of art instruction as visitors who may attend all meetings of the association's governing board;

(2) the governing body of the school corporation to nominate individuals for membership on the association's governing board, with at least two (2) of the nominees to be elected;

(3) the school corporation to use the association's facilities and equipment for educational purposes consistent with the association's purposes;

(4) the students and teachers of the school corporation to tour the association's museum and galleries free of charge;

(5) the school corporation to borrow materials from the association for temporary exhibit in the schools;

(6) the teachers of the school corporation to receive normal instruction in the fine and applied arts at half the regular rates charged by the association; and

(7) the school corporation to expect exhibits in the association's museum that will supplement the work of the students and teachers of the corporation.

A copy of the resolution, certified by the president and secretary of the association, must be filed in the office of the school corporation before payments may be received.

(e) A resolution filed under subsection (d) is not required to be renewed annually. The resolution continues in effect until rescinded. An art association that complies with this section is entitled to continue to receive payments under this section as long as the art association complies with the resolution.

(f) If more than one (1) art association in a city that is described in subsection (a) qualifies to receive payments under this section, the governing body of the school corporation shall select the one (1) art

association best qualified to perform the services described in subsection (d). A school corporation may select only one (1) art association to receive payments under this section.

As added by P.L.1-2005, SEC.48. Amended by P.L.2-2006, SEC.196; P.L.146-2008, SEC.799; P.L.119-2012, SEC.245.

IC 36-10-13-8

School corporations in certain counties; appropriation for cultural institution authorized; prerequisites for receipt of payments

Sec. 8. (a) This section applies to school corporations in a county:

- (1) containing a consolidated city; or
- (2) having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Subject to subsection (c), the governing body of a school corporation may annually appropriate sums to be paid to cultural institutions that are reasonably commensurate with the educational and cultural contributions made by the institutions to the school corporation and the school corporation's students.

(c) Before a cultural institution may receive payments under this section, the president and secretary of the cultural institution must file with the school corporation an affidavit stating that the cultural institution meets the following requirements:

- (1) The governing board has adopted a resolution that entitles a representative of the school corporation to attend and speak at all meetings of the governing body.
- (2) The cultural institution:
 - (A) admits the public to galleries, museums, and facilities at reasonable times and allows public use of those facilities free of charge; or
 - (B) provides alternative services free of charge to the public instead of admission to those facilities.

The governing body of the school corporation shall judge whether the alternative services are conducive to the education or cultural development of the public.

(3) The cultural institution has a permanent location in the municipality where the cultural institution conducts the cultural institution's principal educational or cultural purpose.

(4) The cultural institution has no general taxing authority.

The affidavit must be filed at least thirty (30) days before a request for an appropriation under this section.

(d) A cultural institution that complies with this section may continue to receive payments under this section as long as the school corporation appropriates sums for that purpose.

As added by P.L.1-2005, SEC.48.

IC 36-10-14

Chapter 14. Public Playgrounds Maintained by School; Third Class Cities

IC 36-10-14-1

Application

Sec. 1. This chapter applies only to a school corporation in a third class city with a board of school trustees.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-2

"Board"

Sec. 2. As used in this chapter, "board" refers to a board of school trustees in a third class city.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-3

Power; public playground

Sec. 3. The board may establish, maintain, and equip public playgrounds to be used by children during the summer vacation period. The board may use the public school buildings and grounds in the cities as is necessary to carry out this chapter.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-4

Power; levy

Sec. 4. Subject to IC 6-1.1-18-12, the board may levy a tax not exceeding sixty-seven hundredths of one cent (\$0.0067) on each one hundred dollars (\$100) of assessed valuation of the property in the city to create a fund to carry out this chapter.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-5

Lease or purchase of nonschool property

Sec. 5. The board may lease or purchase grounds in addition to the school grounds, either adjacent to the school grounds or elsewhere in the city. The board may also, under eminent domain statutes, condemn ground to be used for these purposes and pay for condemned ground out of the school revenues of the city not otherwise appropriated.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-6

Management of property

Sec. 6. The board:

- (1) has full control of all playgrounds, including the preservation of order on playgrounds; and
- (2) may adopt suitable rules and bylaws for the control of playgrounds. The board may enforce the rules by suitable penalties.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-7

Personnel

Sec. 7. (a) The board may select and pay for directors and assistants.

(b) The directors and assistants, while on duty and to preserve order and the observance of the rules and bylaws of the board, have all the powers of police officers of the city.

(c) The compensation for the directors and assistants shall be:

(1) fixed by the board; and

(2) paid from school revenues not otherwise appropriated.

As added by P.L.2-2006, SEC.197.

IC 36-10-15

Chapter 15. Wolf Lake Memorial Park

IC 36-10-15-1

Administration of Wolf Lake Memorial Park

Sec. 1. The common council of the city of Hammond shall administer the operation of Wolf Lake Memorial Park in the same manner as other city parks located in the city.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-2

Dedication of real property; vesting of rights in City of Hammond

Sec. 2. All that part of the real property known as Wolf Lake Memorial Park located in North Township, Lake County, Indiana, that:

(1) on March 14, 1957, was held by the state; and

(2) was not in use and occupied on March 15, 1957, by a toll road project constructed and maintained under IC 8-15-2;

is dedicated as a public recreation area. The use, possession, operation, maintenance, and development of the dedicated real property is vested perpetually in the city of Hammond, Indiana, subject to the limitations set forth in this chapter.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-3

Administration of property as public park

Sec. 3. The real property dedicated by this chapter:

(1) shall be administered, operated, maintained, and developed as a public park in the city; and

(2) shall not be withdrawn from the city as long as the use and possession of the real property by the city is consistent with the dedication and all other provisions of this chapter.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-4

Withdrawal of dedication; conditions

Sec. 4. If the city:

(1) converts the dedicated real property or any part of the property to a use other than as a public park in the city; or

(2) dumps or deposits or suffers or permits to be dumped or deposited garbage, refuse, or other worthless matter in or upon the dedicated real property or any part of the property, except as is necessary and incidental to the public park use;

the general assembly may withdraw all of the dedicated real property from the city without compensation to the city.

As added by P.L.220-2011, SEC.686.