

IC 36-7-23

Chapter 23. Multiple County Infrastructure Authority

IC 36-7-23-1

"Authority" defined

Sec. 1. As used in this chapter, "authority" refers to a multiple jurisdiction infrastructure authority established under this chapter.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.5.

IC 36-7-23-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the board of directors of the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-3

Repealed

(Repealed by P.L.86-1999, SEC.21.)

IC 36-7-23-3.7

Applicability of chapter

Sec. 3.7. This chapter applies to all units except townships.
As added by P.L.86-1999, SEC.6.

IC 36-7-23-4

Establishment; public body corporate and politic; multiple county participation; distribution of funds

Sec. 4. (a) A multiple jurisdiction infrastructure authority may be established under this chapter by:

- (1) ordinance of the fiscal body of each unit participating in the authority; and
- (2) if a county is one (1) of the units participating in the authority, the order of the executive of that county; and
- (3) an agreement among the participating units, executed by the executive of each participating unit following the approval of the legislative body of each of the participating units.

(b) The authority is a public body corporate and politic. The authority is separate from the state, but the exercise by the authority of its powers is an essential governmental function.

(c) An agreement to establish an authority must include:

- (1) more than one (1) unit as a participant; and
- (2) a formula for distributing funds contributed by the units participating in the authority.

(d) An authority may add additional participating units at any time by following the procedures set forth in subsection (a).

(e) A unit may participate in more than one (1) authority.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.7.

IC 36-7-23-5

Purpose; activities

Sec. 5. The purpose of the authority is to promote cooperation among the units participating in the authority in order to assist the development of the units included in the agreement by doing the following:

- (1) Utilizing private and public sector resources to address development problems and opportunities.
- (2) Planning, developing, rehabilitating, and otherwise managing infrastructure located in the authority's jurisdiction.
- (3) Supplementing, but not supplanting, traditional local or state responsibilities.
- (4) Providing financial resources to local communities to address their infrastructure needs.
- (5) Providing revenue bonding capacity and resources for bond retirement, or lease rental capacity and resources, that can be directed to development or recapitalization of infrastructure located in the authority's jurisdiction.
- (6) Providing the means to develop revenue producing infrastructure ventures, where revenue can be rechanneled back into the overall infrastructure development effort.
- (7) Providing an overall balanced infrastructure investment strategy that addresses important needs of the participating units for capital projects.
- (8) Providing operating involvement appropriate to each infrastructure component.
- (9) Providing for a continuing and stable source of public funding for infrastructure development for participating units.
- (10) Providing the mechanism to address other regional services as determined to be appropriate by the board.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.8.

IC 36-7-23-6

Repealed

(Repealed by P.L.11-1993, SEC.8.)

IC 36-7-23-7

Eminent domain

Sec. 7. The authority may exercise the power of eminent domain, with the approval of the executive of the unit affected, for any public use in the manner provided by IC 32-24-1.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.2-2002, SEC.116.

IC 36-7-23-8

Contracts with political subdivisions

Sec. 8. The authority may enter into contracts with a political subdivision to carry out the purposes of this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-9

Board of directors

Sec. 9. The powers of the authority are vested in a board of directors. The board is comprised of the following members:

- (1) One (1) member appointed by the executive of each unit participating in the authority.
- (2) One (1) member appointed by the fiscal body of each unit participating in the authority.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.9.

IC 36-7-23-10

Appointed members of board of directors

Sec. 10. (a) A member appointed under section 9 of this chapter must be a resident of the unit whose officials or representatives make the appointment.

(b) A member appointed under section 9(1) or 9(2) of this chapter by a unit executive or unit fiscal body must be an elected official of the unit whose officials or representatives make the appointment.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.10.

IC 36-7-23-11

Terms of office

Sec. 11. (a) A member of the board appointed under section 9 of this chapter serves a term of four (4) years.

(b) The agreement establishing the authority under this chapter must provide:

- (1) that the terms of the initial members appointed under section 9 of this chapter expire after one (1), two (2), three (3), or four (4) years; and
- (2) for approximately twenty-five percent (25%) of the terms of the initial members appointed under section 9 of this chapter to expire in each of the first four (4) years that the agreement is in effect.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.11.

IC 36-7-23-12

Vacancy on board of directors

Sec. 12. The officials responsible for appointing members of the board shall fill a vacancy on the board among the members appointed under section 9 of this chapter by appointment for the unexpired term.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.12.

IC 36-7-23-13

Compensation and expenses of board members

Sec. 13. (a) A member of the board is entitled to reimbursement

for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(b) A member of the board is not entitled to either a salary or a per diem for services rendered in connection with the member's duties. *As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.13.*

IC 36-7-23-14

Repealed

(Repealed by P.L.86-1999, SEC.21.)

IC 36-7-23-15

Officers of board of directors

Sec. 15. The members shall elect:

- (1) a chairman;
- (2) a vice chairman;
- (3) a secretary; and
- (4) other officers determined to be necessary for the board to function;

at the first meeting of the board in January of each year.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.14.

IC 36-7-23-16

Vacancies in offices of board of directors

Sec. 16. The members shall fill a vacancy in an office described by section 15 of this chapter for the unexpired term.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-17

Quorum; proxies

Sec. 17. (a) A majority of the members of the board constitutes a quorum for the transaction of business. The affirmative vote of a majority of the board is necessary for an action to be taken by the board.

(b) A member may vote by written proxy delivered in advance to the chairman or secretary of the board.

(c) A vacancy in the membership of the board does not impair the right of a quorum to exercise all rights and perform all duties of the board.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.15.

IC 36-7-23-18

Meetings

Sec. 18. Meetings of the board shall be held at the call of the chairman or at the request of at least three (3) members. The board shall meet at least once every three (3) months to attend to the

business of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-19

Powers and duties

Sec. 19. The board may do the following:

- (1) Borrow money or otherwise incur indebtedness for any of its purposes, and issue revenue bonds, notes, or other evidences of indebtedness, whether secured or unsecured (other than general obligation bonds), to a person.
- (2) Purchase, discount, sell, and negotiate notes and other evidences of indebtedness.
- (3) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss and any other insurance the board considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
- (4) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, a federal or state agency, municipality, private organization, or other source.
- (5) Adopt, amend, or rescind bylaws, rules, and regulations necessary or convenient for the performance of the authority's powers and duties under this chapter.
- (6) Sue and be sued.
- (7) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real and personal property, or an interest in real or personal property, wherever situated.
- (8) Sell, convey, lease, exchange, transfer, or otherwise dispose of all its property or an interest in its property, wherever situated.
- (9) Adopt a seal.
- (10) Cooperate with other public and private organizations to carry out the purposes of the authority.
- (11) Exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-20

Bylaws, rules, and regulations

Sec. 20. The board may adopt bylaws, rules, and regulations without complying with IC 4-22-2.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-21

Broad construction of board's powers

Sec. 21. The board's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be

construed as a limitation of powers.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-22

Revenue bond resolutions

Sec. 22. The board must adopt a resolution before issuing and selling revenue bonds under this chapter. The amount of the bonds issued under a resolution may not exceed the total, as estimated by the board, of all expenses reasonably incurred in connection with the purpose for which the bonds were issued.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-23

Amount of bonds sold

Sec. 23. In determining the amount of bonds to be issued and sold, the board may include the costs of the following:

- (1) Acquisition and construction of infrastructure.
- (2) Financing charges, bond sale discount, reasonable issuance costs, and interest accruing on the bonds before and during the construction period and for a reasonable period of time after construction.
- (3) Expenses such as legal fees and engineering fees.
- (4) All other expenses necessary or incidental to accomplishing the purposes of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-24

Disclosures on face of bond

Sec. 24. The bonds must indicate the following on the face of each bond:

- (1) The denomination of the bond.
- (2) The maturity date or dates, not exceeding fifty (50) years from the date of issue.
- (3) The interest rate or rates if fixed rates are used, or the manner in which the interest rate will be determined if variable or adjustable rates are used.
- (4) The registration privileges.
- (5) That the bond does not constitute a debt of the state or a political subdivision within the meaning or application of a constitutional provision or limitation, but that the bond is payable solely as to both principal and interest from all or part of the revenues of the authority, as set forth in the resolution of the authority.
- (6) The conditions and terms under which the bonds may be redeemed before maturity.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-25

Execution, attestation, and authentication of bonds

Sec. 25. The bonds:

- (1) shall be executed by the manual or facsimile signature of the chairman of the board;
- (2) shall be attested by the manual or facsimile signature of the secretary of the board;
- (3) shall be imprinted or impressed with the seal of the authority;
- (4) may be authenticated by a trustee, registrar, or paying agent; and
- (5) constitute valid and binding obligations of the authority, even if the chairman, the secretary, or both, whose manual or facsimile signature appears on the bond, no longer hold those offices.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-26

Negotiability of bonds

Sec. 26. The bonds, when issued, have all the qualities of negotiable instruments under IC 26, subject to their provisions for registration, and are incontestable in the hands of a bona fide purchaser or holder of bonds for value.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-27

Sale of bonds

Sec. 27. The bonds issued under this chapter may be sold by the board at a public or private sale at a time or times determined by the board.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-28

Disposition of bond proceeds; bond maturities; rights of bondholders; rights and duties of directors

Sec. 28. The proceeds of bonds issued under this chapter are appropriated for the purpose for which the bonds are issued. The proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the board provides in the resolution or trust indenture authorizing the issuance of the bonds in the first instance and the issuance of any refunding bonds, or in a trust indenture authorized and approved by resolution of the board. The maturities of the bonds, the rights of the holders, and the rights, duties, and obligations of the board are governed in all respects by this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-29

Bonds payable from and secured by authority revenues only

Sec. 29. The bonds issued under this chapter constitute the corporate obligations only of the authority and are payable solely from and secured exclusively by the pledge of all or part of the revenues of the authority, as set forth in the resolution of the

authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-30

Covenant not to impair taxes pledged to bonds

Sec. 30. With respect to bonds for which a pledge of revenue has been made under this chapter, the general assembly covenants with the authority and the purchasers or owners of those bonds that this chapter will not be repealed or amended in any manner that will adversely affect the imposition of a tax in which revenue was the basis of the pledge as long as the principal of, or interest on, any of those bonds is unpaid.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-31

Long term management plan

Sec. 31. The board shall adopt, and may amend or repeal, a long term management plan for the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-32

Executive director

Sec. 32. (a) The board may appoint an executive director of the authority.

(b) If the board determines to appoint an executive director, the board shall appoint a nominating committee composed of members of the board. The committee must submit a recommendation to the board concerning the individuals qualified to serve as executive director.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.16.

IC 36-7-23-33

Powers and duties of executive director

Sec. 33. The executive director shall:

- (1) administer, manage, and direct the affairs and activities of the authority in accordance with the policies of the board and under the control and direction of the board;
- (2) maintain and be custodian of all books, documents, and papers filed with the authority and the official seal of the authority; and
- (3) perform other duties directed by the members to carry out the purposes of this chapter.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.17.

IC 36-7-23-34

Salaries; expenses of board, authority, employees, and consultants

Sec. 34. The executive director must approve all accounts for salaries, allowable expenses of the board or of an employee or

consultant, and the expenses incidental to the operation of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-35

Minutes of board; records and documents of authority

Sec. 35. The secretary of the board may:

(1) make copies of the minutes of the board and other records and documents of the authority; and

(2) give certificates under the seal of the authority to the effect that the copies are true copies.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-36

Officers, agents, and employees; legal counsel; technical experts

Sec. 36. The board may, without the approval of the attorney general or any other state officer, employ legal counsel, technical experts, and permanent or temporary officers, agents, and employees that the board determines necessary to carry out the efficient operation of the authority. The board shall determine the qualification, duties, compensation, and terms of office of persons employed under this section.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-37

Delegation of administrative duties

Sec. 37. The board may delegate to one (1) or more agents or employees of the authority the administrative duties the board considers proper.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-38

Personnel policies

Sec. 38. The board shall adopt personnel policies governing the employees of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-39

Authority employees not employees of state

Sec. 39. An employee of the authority is not an employee of the state.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-40

Conflict of interest disclosure

Sec. 40. A member of the board or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the board as soon as the member or employee has knowledge of the actual or prospective

interest.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-41

Nonparticipation of director or employer with conflicting interest

Sec. 41. A disclosure under section 40 of this chapter shall be announced at the first meeting of the board following the disclosure and entered upon the minutes of that meeting. Upon disclosure, the member or employee shall not participate in an action by the board or authority authorizing the transaction. However, an interest described under section 40 of this chapter does not invalidate an action by the board or authority with the participation of the disclosing member before the time when the member became aware of the interest or should reasonably have become aware of the interest.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-42

Officers and employees of state or political subdivisions

Sec. 42. Notwithstanding any other law, an officer or employee of the state or a political subdivision does not forfeit that office or employment by reason of acceptance of membership on the board or of providing services to the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-43

Personal liability of directors, officers, employees, and agents

Sec. 43. The members of the board and the officers, employees, and agents of the authority are not subject to personal liability or accountability by reason of an act authorized by this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-44

Funds and accounts

Sec. 44. The board may create funds and accounts necessary and desirable for its purposes.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-45

Deposit of funds

Sec. 45. All money of the authority, except as provided in this chapter, shall be deposited as soon as practicable in a separate account or accounts in one (1) or more financial institutions. The money in these accounts shall be paid on checks signed by the chairman or other officers or employees of the authority or by wire transfer or other electronic means that the board authorizes. All deposits of money shall, if required by the board, be secured in a manner that the board determines to be prudent.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-46

Authority funds as trust funds

Sec. 46. Notwithstanding any other law, funds received by the authority under this chapter are trust funds to be held and applied solely as provided by this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-47

Audit of funds and accounts

Sec. 47. The funds and accounts of the authority are subject to an annual audit by the state board of accounts.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-48

Authority property as public property; tax exemption

Sec. 48. All property, both tangible and intangible, acquired or held by the authority under this chapter is public property used for public and governmental purposes. All the property, along with the income from the property, is exempt from all taxes imposed by the state or a political subdivision, except for 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.346-1989(ss), SEC.7. Amended by P.L.21-1990, SEC.55; P.L.254-1997(ss), SEC.32.

IC 36-7-23-49

Payment of expenses; indebtedness or liability of state or political subdivision

Sec. 49. All expenses incurred by the board in carrying out this chapter are payable solely from funds provided under this chapter. This chapter does not authorize the board to incur indebtedness or liability on behalf of or payable by the state or a political subdivision.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-50

Annual report

Sec. 50. The board shall, at the close of each fiscal year, submit in an electronic format under IC 5-14-6 an annual report of its activities for the preceding year to the legislative council. Each member of the general assembly may receive a copy of the report by submitting a request to the executive director of the legislative council.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.28-2004, SEC.182.

IC 36-7-23-51

Operating and financial statement

Sec. 51. A report under section 50 of this chapter must set forth a complete operating and financial statement for the authority during

the fiscal year covered by the report.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-52

Fees, rates, and charges for use of infrastructures

Sec. 52. (a) A resolution establishing just and reasonable fees, rates, and charges for the use of infrastructures under this chapter may be adopted by the board after a public hearing. Notice of the hearing must be published one (1) time, at least ten (10) days before the hearing, in one (1) newspaper published in each county in which a participating unit is located in accordance with IC 5-3-1. The notice must provide a summary of the resolution.

(b) Fees, rates, and charges adopted by the authority for a particular infrastructure shall comply with statutes authorizing units to adopt fees, rates, and charges for that particular type of infrastructure or, if there is no statute authorizing units to adopt fees, rates, and charges for that particular type of infrastructure, the fees, rates, and charges must comply with IC 36-1-3.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.18.

IC 36-7-23-53

Lease of infrastructures

Sec. 53. (a) An authority may enter into a lease of any infrastructure that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years, and the lease may provide for payments to be made by the authority from any revenues of the authority.

(b) A lease may provide that payments by the authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased infrastructure in accordance with the lease. The terms of each lease must be based upon the value of the infrastructure leased and may not create a debt of the authority or a member for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the authority only after a public hearing by the board at which all interested parties are provided the opportunity to be heard. After the public hearing, the board may adopt a resolution authorizing the execution of the lease on behalf of the authority if the board finds that the service to be provided throughout the term of the lease will serve the public purpose of the authority and is in the best interests of its residents.

(d) The authority may:

- (1) pledge revenues to make payments under the lease; and
- (2) establish a special fund to make the payments.

(e) Lease rentals may be limited to money in the special fund so that the obligations of the authority to make the lease rental payments are not considered debt of the authority or a member for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the authority enters

into a lease under this section.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.19.

IC 36-7-23-54

Corporations permitted to lease infrastructures to authorities

Sec. 54. A nonprofit or for profit corporation organized under Indiana law or admitted to do business in Indiana may lease facilities referred to in section 53 of this chapter to an authority under this chapter.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.179-1991, SEC.33.

IC 36-7-23-55

Securities exempt from registration laws

Sec. 55. Any security issued in connection with a financing under this chapter is exempt from the registration requirements of IC 23-19 or any other securities registration law.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.27-2007, SEC.34.

IC 36-7-23-56

Bonds exempt from taxation

Sec. 56. All bonds issued under this chapter and the interest on the bonds are exempt from taxation in accordance with IC 6-8-5.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-57

Revenues of authority exempt from taxation

Sec. 57. All revenues received by the authority under this chapter are exempt from all taxation.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-58

Financing methods

Sec. 58. The infrastructure, or any part of the infrastructure, to be financed under this chapter, may be financed by any one (1) or more or any combination of one (1) or more of the methods provided for in this chapter. The authority may pledge any money or mortgage or pledge property available to it under this chapter as set forth in IC 5-1-14-4 and any member may pledge any money or mortgage or pledge property available to it to the authority as set forth in the agreement creating the authority. Any such pledge or mortgage by a member to the authority shall be governed by and binding under IC 5-1-14-4.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.20.

IC 36-7-23-59

Full authority to issue bonds without state approval; construction

with other statutes conferring powers

Sec. 59. This chapter constitutes full authority for the issuance of bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things, by a board, officer, commission, department, agency, or instrumentality of the state is required to issue bonds or to do any act or perform anything under this chapter except as prescribed by this chapter. The powers conferred by this chapter are in addition to, and not a substitute for, and the limitations imposed by this chapter do not affect, the powers conferred by any other statute.

As added by P.L.346-1989(ss), SEC.7.