

## **IC 36-3**

### **ARTICLE 3. GOVERNMENT OF INDIANAPOLIS AND MARION COUNTY (UNIGOV)**

#### **IC 36-3-1**

##### **Chapter 1. Consolidation and Transfer of Powers**

#### **IC 36-3-1-0.3**

##### **General assembly findings**

Sec. 0.3. The general assembly finds the following:

- (1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.
- (2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county and city government and an absence of unincorporated areas within its county.
- (3) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through consolidation of certain county, city, and township functions.
- (4) Consolidation of certain county, city, and township services and operations will serve the public purpose by allowing the consolidated city to:
  - (A) eliminate duplicative services;
  - (B) provide better coordinated and more uniform delivery of local governmental services;
  - (C) provide uniform oversight and accountability for the budgets for local governmental services; and
  - (D) allow local government services to be provided more efficiently and at a lower cost than without consolidation.
- (5) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.
- (6) The public purpose of those parts of P.L.227-2005 relating to a consolidated city is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

*As added by P.L.220-2011, SEC.647.*

#### **IC 36-3-1-1**

##### **Application of chapter**

Sec. 1. This chapter applies in each county having a first class city.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-1-2**

**Transitional provisions; change to first class city**

Sec. 2. The following transitional provisions apply whenever a city changes into a first class city under this title:

- (1) During the period before July 1 of the year in which the change occurs, the city shall be governed as if it remained a second class city.
- (2) During the period after June 30 of the year in which the change occurs, the city shall be governed by an interim government under section 3 of this chapter.
- (3) On January 1 following the year in which the change occurs, the city becomes a consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

**IC 36-3-1-3**

**Interim government of first class city; powers of officers; budgets and appropriations; appointment of future directors**

Sec. 3. (a) The interim government of the first class city during the period prescribed by section 2(2) of this chapter consists of:

- (1) the city executive, who is interim mayor and has the powers of the executive of a consolidated city;
- (2) the city clerk, who is interim clerk and has the powers of the clerk of a consolidated city;
- (3) the members of the city legislative body and the members of the county fiscal body, who together comprise an interim city-county council having the powers of the legislative body of a consolidated city; and
- (4) the members of the city legislative body, who together comprise an interim special service district council having the powers of the legislative body of a special service district.

(b) The interim government shall make budgets and appropriations, and impose tax levies and special tax levies, for the consolidated city, the county, and other political subdivisions for the following year in the manner prescribed by this article.

(c) The interim mayor may appoint the future directors of the departments of the consolidated city to assist in planning for the change into a consolidated city, and the interim special service district council may make appropriations to finance this planning.

*As added by Acts 1980, P.L.212, SEC.2.*

**IC 36-3-1-4**

**Consolidated city; abolishment of first class city; territory; name; interim government**

Sec. 4. (a) When a first class city becomes a consolidated city, the first class city is abolished as a separate entity, and the territory of the consolidated city includes:

- (1) all the territory that comprised the first class city before it became a consolidated city; and
- (2) all other territory in the county except territory of an excluded city.

However, certain departments and special taxing districts of the

consolidated city may have jurisdiction as provided by law over more or less territory than that inside the boundaries of the consolidated city.

(b) The consolidated city is known as "City of \_\_\_\_\_," with the name of the first class city inserted in the blank.

(c) Unless the executive and legislative body of the consolidated city are elected during the interim period and take office on the date prescribed by section 2(3) of this chapter, the members of the interim government prescribed by section 3 of this chapter continue in office as officers of the consolidated city until an executive and a legislative body of the consolidated city are elected and qualified.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-5**

#### **Officers of executive and legislative body; board of commissioners**

Sec. 5. (a) When a first class city becomes a consolidated city, the officers who become the executive and legislative body of the consolidated city under section 4(c) of this chapter also become the executive and legislative body of the county.

(b) The members of the board of commissioners of the county are entitled to remain in office until their terms expire, although the board is no longer the executive of the county. As their terms expire or their positions become vacant, they shall be replaced by the following officers in the following order:

- (1) The county treasurer.
- (2) The county auditor.
- (3) The county assessor.

These three (3) officers then serve ex officio as commissioners under IC 36-3-3-10.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-5.1**

#### **Consolidation of police department and county sheriff's department**

Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department. The consolidated law enforcement department must be a division of the department of public safety under the direction and control of a director of public safety.

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

- (1) holds a public hearing on the proposed consolidation; and
- (2) determines that:
  - (A) reasonable and adequate police protection can be provided through the consolidation; and
  - (B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

- (1) County jail operations and facilities.
- (2) Emergency communications.
- (3) Security for buildings and property owned by:
  - (A) the consolidated city;
  - (B) the county; or
  - (C) both the consolidated city and county.
- (4) Service of civil process and collection of taxes under tax warrants.
- (5) Sex and violent offender registration.

(e) The following apply if an ordinance is adopted under this section:

(1) The department of local government finance shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).

(2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.

(3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.

(4) A member of the county police force who:

(A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(5) A member of the police department of the consolidated city who:

(A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the

police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.

(7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.

(8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under section 6 of this chapter may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-10 for members of the sheriff's pension trust and under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date of the consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the

budget committee.

*As added by P.L.227-2005, SEC.17. Amended by P.L.1-2006, SEC.559; P.L.216-2007, SEC.54; P.L.182-2009(ss), SEC.400; P.L.266-2013, SEC.5.*

### **IC 36-3-1-6**

#### **Special service districts; special taxing districts**

Sec. 6. (a) When a first class city becomes a consolidated city, the following special service districts of the consolidated city are created:

- (1) Fire special service district.
- (2) Police special service district.
- (3) Solid waste collection special service district.

(b) The territory of each special service district includes all the territory that comprised the district as of August 31, 1981, subject to IC 36-3-2-3(b).

(c) When a first class city becomes a consolidated city, all of the following special taxing districts existing in the city continue as special taxing districts of the consolidated city including the following territory:

- (1) Flood control district, including all the territory in the county.
- (2) Park district, including all the territory in the county.
- (3) Redevelopment district, including all the territory in the consolidated city.
- (4) Sanitary district, including all the territory that comprised the district as of August 31, 1981.
- (5) Waste disposal district, including all the territory that comprised the district as of August 31, 1981.

In addition, a metropolitan thoroughfare district, including all the territory in the county, is created as a special taxing district of the consolidated city.

(d) The territory of each special taxing district is subject to IC 36-3-2-3(b).

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.15; Acts 1982, P.L.77, SEC.4.*

### **IC 36-3-1-6.1**

#### **Consolidation of fire departments**

Sec. 6.1. (a) This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department"):

- (1) A township for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the consolidated city.
- (2) Any fire protection territory established under IC 36-8-19 that is located in a township described in subdivision (1).

(b) If the requirements of subsection (g) are satisfied, the consolidated fire department shall provide fire protection services

within an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.

(c) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, all of the property, equipment, records, rights, and contracts of the department consolidated into the fire department of the consolidated city are:

- (1) transferred to; or
- (2) assumed by;

the consolidated city on the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.

(d) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, the employees of the fire department consolidated into the fire department of the consolidated city cease employment with the department of the entity listed in subsection (a) and become employees of the consolidated fire department on the effective date of the consolidation. The consolidated city shall assume all agreements with labor organizations that:

- (1) are in effect on the effective date of the consolidation; and
- (2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

(e) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city, the indebtedness related to fire protection services incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district.

(f) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city, the merit board and the merit system of the fire department that is consolidated are dissolved on the effective date of the consolidation, and the duties of the merit board are transferred to and assumed by the merit board for the consolidated fire department on the effective date of the

consolidation.

(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city and the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city, the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(h) The following apply if the requirements of subsection (g) are satisfied:

(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(2) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section; remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(3) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1937 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section; remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad

valorem property tax levy under IC 6-1.1-18.5:

(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and

(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.

(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

(6) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the township are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the fire special service district. Property taxes to fund the pension

obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.

(8) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and before March 1 in each of the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

*As added by P.L.227-2005, SEC.18. Amended by P.L.1-2006, SEC.560.*

### **IC 36-3-1-6.2**

#### **Emergency ambulance services**

Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter.

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

*As added by P.L.227-2005, SEC.19.*

### **IC 36-3-1-7**

#### **Excluded cities; included towns**

Sec. 7. (a) A municipality, other than a first class city, having a population of more than five thousand (5,000) in the county is known as an excluded city and does not become part of the consolidated city under this chapter. In addition, a municipality that had qualified as an

excluded city before January 1, 1973, under IC 18-4-1-2(d) (repealed September 1, 1981), is considered an excluded city. Any other municipality is known as an included town and does become part of the consolidated city under this chapter.

(b) This article applies to any part of an included town that is inside the county boundaries, even though part of it is outside those boundaries.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.3-1990, SEC.124.*

### **IC 36-3-1-8**

#### **Transfer of functions and obligations**

Sec. 8. (a) When a first class city becomes a consolidated city, the agencies of the first class city are abolished and their functions are assigned to agencies of the consolidated city as provided by this title. When these functions are transferred in this manner, the property, records, personnel, rights, and liabilities related to the functions are likewise transferred, except that the city-county legislative body may, by ordinance, provide that they be transferred to a different agency.

(b) Notwithstanding subsection (a), these obligations are transferred as follows when a first class city becomes a consolidated city:

(1) Bonds and other indebtedness of a special taxing district, to the special taxing district that continues to have the function of the district on account of which the bonds and indebtedness were issued.

(2) Bonds and other indebtedness relating to a function transferred to a special service district, to the consolidated city.

(3) Any other bonds and other indebtedness of, or assumed by, the first class city, to the consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-9**

#### **Ordinances; application; disposition**

Sec. 9. (a) When a first class city becomes a consolidated city, every ordinance of:

(1) the first class city;

(2) the county;

(3) a mass transportation authority of the county; or

(4) any other municipal corporation the functions of which are transferred to the consolidated city by this title;

becomes an ordinance of the consolidated city and shall be enforced only by the consolidated city.

(b) Such an ordinance continues to apply only in the territory in which it applied before becoming an ordinance of the consolidated city, subject to subsection (c).

(c) Such an ordinance may be codified, amended, or repealed by the city-county legislative body in the same manner as other ordinances under this title.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-10**

#### **Annexation proceedings pending; continuation; expansion effect**

Sec. 10. If any annexation proceedings concerning territory inside the county are pending when a first class city becomes a consolidated city, the annexation proceedings shall be continued as if this chapter did not apply. However, if the annexation later takes effect, the following provisions apply:

- (1) If the annexation is by the first class city, it has the effect of expanding the special service districts created by section 6 of this chapter.
- (2) If the annexation is by another municipality in the county, it has the effect of expanding the municipality as an excluded city or included town.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-11**

#### **Effect of change on political subdivisions in county; continuation of powers and rights**

Sec. 11. Political subdivisions in the county are not affected when a first class city becomes a consolidated city, except to the extent that this title limits their functions or transfers them to the consolidated city. Such a political subdivision continues to have:

- (1) the power to levy and collect property taxes in furtherance of functions not transferred to the consolidated city; and
- (2) if applicable, the power to adopt and enforce ordinances prescribing a penalty for violation.

In addition, an excluded city or included town continues to have the right to receive distributions of revenues collected by the state, in the manner prescribed by statute, including distributions from the motor vehicle highway account, the cigarette tax fund, alcoholic beverage fees, and other tax revenues.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-1-12**

#### **Alteration of status, boundaries, or ordinances of political subdivisions**

Sec. 12. This chapter does not alter the status, boundaries, or ordinances of political subdivisions in a county where a first class city became a consolidated city before September 1, 1981. The status, boundaries, and ordinances remain as they existed on August 31, 1981, until altered according to the applicable law.

*As added by Acts 1980, P.L.212, SEC.2.*

## **IC 36-3-2**

### **Chapter 2. Powers of Political Subdivisions in the County**

#### **IC 36-3-2-1**

##### **Application of chapter**

Sec. 1. This chapter applies to political subdivisions in a county having a consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-2-2**

##### **Consolidated city; home rule and taxation powers; annexation of territory**

Sec. 2. (a) The consolidated city has home rule powers under IC 36-1-3, including all the powers that a first class city has according to law. In addition, the consolidated city has the power to levy and collect taxes on taxable privileges and to regulate those privileges.

(b) If the consolidated city wants to annex territory inside the county, it must do so in the manner prescribed by section 7 of this chapter.

(c) The consolidated city may not annex territory outside the county.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.16.*

#### **IC 36-3-2-3**

##### **Powers and duties of special service districts; administration of special service and special taxing districts; expansion of solid waste collection district**

Sec. 3. (a) A special service district of the consolidated city:

(1) may sue and be sued;

(2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city or the county. The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a solid waste collection district as follows:

(1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation.

(2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.

(3) After receiving the petition, the works board shall:

- (A) set a date for a public hearing;
  - (B) publish notice of the hearing in accordance with IC 5-3-1; and
  - (C) upon hearing the matter, determine whether the territory should be added to the district.
- (4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.
- (5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this section.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.17; Acts 1982, P.L.77, SEC.5; P.L.227-2005, SEC.20.*

#### **IC 36-3-2-4**

##### **Excluded city; home rule powers; annexation of territory**

Sec. 4. (a) An excluded city has home rule powers under IC 36-1-3, including all the powers that municipalities of its class have according to law.

(b) An excluded city that wants to annex territory inside the county must do so in the manner prescribed by section 7 of this chapter.

(c) An excluded city that wants to annex territory outside the county may do so in any manner prescribed by IC 36-4-3.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-2-5**

##### **Included town; home rule powers; restrictions; annexation of territory**

Sec. 5. (a) An included town has home rule powers under IC 36-1-3, including all the powers that municipalities of its class have according to law. However, an included town may not:

- (1) enforce an ordinance or regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or
- (2) issue general obligation bonds.

(b) An included town that wants to annex territory inside the county may annex only territory that is outside the corporate boundaries of the excluded cities in the county. This subsection applies notwithstanding IC 36-4-3-2; however:

- (1) the included town must follow the procedures prescribed by IC 36-4-3 for other annexations; and
- (2) all territory annexed under this subsection remains part of the consolidated city.

(c) An included town that wants to annex territory outside the county may do so in any manner prescribed by IC 36-4-3.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-2-6**

##### **Conservancy district; statutory powers; restrictions**

Sec. 6. A conservancy district located wholly or partially inside the corporate boundaries of the consolidated city has all the powers granted it by statute. However, it may not:

- (1) enforce a regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or
- (2) issue general obligation bonds.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-2-7**

#### **Transfer of territory; procedure**

Sec. 7. (a) This section governs the transfer of territory that is either:

- (1) inside the corporate boundaries of the consolidated city and contiguous to an excluded city; or
- (2) inside the corporate boundaries of an excluded city and contiguous to the consolidated city.

IC 36-4-3 does not apply to such a transfer.

(b) If the owners of land located in territory described in subsection (a) want to have that territory transferred from one (1) municipality to the other, they must file:

- (1) a petition for annexation of that territory with the legislative body of the contiguous municipality; and
- (2) a petition for disannexation of that territory with the legislative body of the municipality containing that territory.

Each petition must be signed by at least fifty-one percent (51%) of the owners of land in the territory sought to be transferred. The territory must be reasonably compact in configuration, and its boundaries must generally follow streets or natural boundaries.

(c) Each legislative body shall, not later than sixty (60) days after a petition is filed with it under subsection (b), either approve or disapprove the petition, with the following results:

- (1) Except as provided in subsection (g), if both legislative bodies approve, the transfer of territory takes effect:
  - (A) on the effective date of the approval of the latter legislative body to act; and
  - (B) when a copy of each transfer approval has been filed under subsection (f).
- (2) If the legislative body of the contiguous municipality disapproves or fails to act within the prescribed period, the proceedings are terminated.
- (3) If the legislative body of the contiguous municipality approves but the legislative body of the other municipality disapproves or fails to act within the prescribed period, the proceedings are terminated unless there is an appeal under subsection (d).

(d) In the case described by subsection (c)(3), the petitioners may, not later than sixty (60) days after the disapproval or expiration of the prescribed period, appeal to the circuit court. The appeal must allege that the benefits to be derived by the petitioners from the transfer

outweigh the detriments to the municipality that has failed to approve, which is defendant in the appeal.

(e) The court shall try an appeal under subsection (d) as other civil actions, but without a jury. If the court determines that:

- (1) the requirements of this section have been met; and
- (2) the benefits to be derived by the petitioners outweigh the detriments to the municipality;

it shall order the transfer of territory to take effect on the date its order becomes final, subject to subsection (g), and shall file the order under subsection (f). However, if the municipality, or a district of it, is furnishing sanitary sewer service or municipal water service in the territory, or otherwise has expended substantial sums for public facilities (other than roads) specially benefiting the territory, the court shall deny the transfer.

(f) A municipal legislative body that approves a transfer of territory under subsection (c) or a court that approves a transfer under subsection (e) shall file a copy of the approval or order, setting forth a legal description of the territory to be transferred, with:

- (1) the office of the secretary of state; and
- (2) the circuit court clerk of each county in which the municipality is located.

(g) A transfer of territory under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(h) A petition for annexation or disannexation under this section may not be filed with respect to land as to which a transfer of territory has been disapproved or denied within the preceding three (3) years.

(i) The legislative body of a municipality annexing territory under this section shall assign the territory to at least one (1) municipal legislative body district under IC 36-3-4-3 or IC 36-4-6 not later than thirty (30) days after the transfer of territory becomes effective under this section.

(j) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a transfer of territory that took effect January 2, 2010, because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.5-1989, SEC.89; P.L.3-1997, SEC.452; P.L.123-2000, SEC.3; P.L.113-2010, SEC.114.*

### **IC 36-3-2-7.5**

#### **Connection of sewer and water service; waiver against remonstrance**

Sec. 7.5. A landowner is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer

or water service if all of the following conditions apply:

- (1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.
- (2) A person other than the landowner or the municipality has paid the cost of connection to the service.

*As added by P.L.172-1995, SEC.3.*

### **IC 36-3-2-8**

#### **Services provided outside boundaries; service charge**

Sec. 8. Whenever the consolidated city, or any of its special service districts or special taxing districts, provides services outside its boundaries, it may impose a service charge for installation and operating expenses, subject to IC 36-1-3-8(6).

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-2-9**

#### **Federal manpower program; approval to operate or be prime sponsor**

Sec. 9. Before a political subdivision located within the corporate boundaries of the consolidated city may operate or be the prime sponsor of a federal manpower program, it must obtain the approval of both the executive and the legislative body of the consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-2-10**

#### **Payments in lieu of taxes ("PILOTS"); consolidated city and county; public entities**

Sec. 10. (a) The general assembly finds the following:

- (1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.
- (2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.
- (3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

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

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Personal property.
- (6) Property taxation.

(7) Tangible property.

(8) Township assessor.

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

(d) As used in this section, "public entity" means any of the following government entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A building authority operating under IC 36-9-13.

(3) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

(1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;

(2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or

(3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). Except as provided in subsection (l), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

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

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

(1) operating and maintenance expenses;

(2) payment of principal and interest on any bonded

indebtedness;

(3) depreciation or replacement fund expenses;

(4) bond and interest sinking fund expenses; and

(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

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

*As added by P.L.27-1992, SEC.27. Amended by P.L.93-1993, SEC.8; P.L.219-2007, SEC.111; P.L.146-2008, SEC.701; P.L.266-2013, SEC.6.*

### **IC 36-3-2-11**

#### **Ordinance requiring payment of PILOTS**

Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

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

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

(1) agreed upon by the property owner and the legislative body of the consolidated city;

(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and

(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property

taxation.

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

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

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

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

*As added by P.L.19-2000, SEC.2. Amended by P.L.186-2001, SEC.9; P.L.170-2002, SEC.140; P.L.179-2002, SEC.4; P.L.1-2003, SEC.98; P.L.219-2007, SEC.112; P.L.146-2008, SEC.702.*

## **IC 36-3-3**

### **Chapter 3. Executive Authorities**

#### **IC 36-3-3-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each consolidated city and its county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-2**

##### **Mayor as executive; election; qualifications; term of office**

Sec. 2. (a) A mayor, who is the executive of both the consolidated city and the county, shall be elected under IC 3-10-6 by the voters of the whole county.

(b) To be eligible to serve as the executive, a person must meet the qualifications prescribed by IC 3-8-1-24.

(c) The term of office of an executive is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.1; P.L.194-1984, SEC.1; P.L.5-1986, SEC.38.*

#### **IC 36-3-3-3**

##### **Deputy as acting executive; designation; powers; certification; president of legislative body as acting executive**

Sec. 3. (a) Whenever the executive is absent from the county, ill, or injured, he may designate one (1) of his deputies as acting executive, with all the powers of the office. The executive may exercise this power for a maximum of fifteen (15) days in any sixty (60) day period.

(b) A designation under subsection (a) shall be certified to the president and clerk of the city-county legislative body. In addition, when the executive resumes his duties, he shall certify to those officers the expiration of the designation.

(c) Whenever the executive is incapacitated and unable to make a designation under subsection (a), the president of the legislative body becomes acting executive.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-4**

##### **Residence; vacancy in office**

Sec. 4. (a) The executive must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana.

(b) The office of executive becomes vacant whenever the executive:

- (1) dies, resigns, or is removed from office;
- (2) ceases to be a resident of the county; or
- (3) is incapacitated to the extent that the executive is unable to perform the executive's duties for more than six (6) months.

(c) The vacancy shall be filled under IC 3-13-8.  
*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.5-1986, SEC.39; P.L.3-1987, SEC.551.*

#### **IC 36-3-3-5**

##### **Supervision of work of departments, special service districts, and special taxing districts**

Sec. 5. As the chief officer of the executive branch of the consolidated city government as provided by IC 36-4-4, the executive shall supervise the work of the departments of the consolidated city, its special service districts, and its special taxing districts.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-6**

##### **Approval or veto of ordinances and resolutions**

Sec. 6. The executive shall approve or veto ordinances and resolutions of the legislative body under IC 36-3-4.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-7**

##### **Investigation of work and reports; examination of records**

Sec. 7. The executive may investigate the work of those under his supervision and require reports from them. He may examine any records of the consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-8**

##### **Appointment powers**

Sec. 8. The executive shall make the appointments prescribed by IC 36-3-5 and all other appointments required by statute to be made by the executive of a consolidated or first class city or a county having such a city.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-9**

##### **Performance of duties and exercise of powers; restrictions**

Sec. 9. The executive shall perform the duties and exercise the powers prescribed for the board of commissioners of the county by statutes other than this title, except for the following:

(1) Duties and powers vested in the city-county legislative body by IC 36-3-4.

(2) Duties and powers retained by the board of commissioners of the county under section 10 of this chapter.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-3-10**

##### **Board of commissioners of county; members; powers and duties**

Sec. 10. (a) The board of commissioners of the county is composed of the county treasurer, the county auditor, and the county assessor. These officers shall serve ex officio as commissioners

without additional compensation for performing the duties of the board.

(b) The board of commissioners:

(1) shall make the appointments required by statute to be made by the board of commissioners of a county;

(2) shall perform the duties and exercise the powers prescribed by statutes pertaining to the issuance and payment of bonds of the county and the expenditure of the unexpended proceeds of those bonds; and

(3) may exercise the powers granted it by Article 9, Section 3 of the Constitution of the State of Indiana and by IC 12-30-3.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.2-1992, SEC.888.*

## **IC 36-3-4**

### **Chapter 4. Legislative Bodies**

#### **IC 36-3-4-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The amendments made to sections 12 and 14 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

*As added by P.L.220-2011, SEC.648.*

#### **IC 36-3-4-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each consolidated city and its county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-2**

##### **City-county council; membership; election; eligibility; vacancy; term of office**

Sec. 2. (a) A city-county council, which is the legislative body of both the consolidated city and the county, shall be elected under IC 3-10-6 by the voters of the county. The city-county council consists of the following members:

(1) Before January 1, 2016, twenty-nine (29) members.

(2) After December 31, 2015, twenty-five (25) members.

(b) To be eligible to serve as a member of the legislative body, a person must meet the qualifications prescribed by IC 3-8-1-25.

(c) A member of the legislative body must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected.

(d) A vacancy in the legislative body occurs whenever a member:

(1) dies, resigns, or is removed from office;

(2) ceases to be a resident of the district from which the member was elected; or

(3) is incapacitated to the extent that the member is unable to perform the member's duties for more than six (6) months.

(e) The vacancy shall be filled under IC 3-13-8.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.5-1986, SEC.40; P.L.3-1987, SEC.552; P.L.266-2013, SEC.7.*

#### **IC 36-3-4-3**

##### **City-county legislative body; division of county into districts;**

**composition of body; election; petition for division of county**

Sec. 3. (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

- (1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) do not cross precinct boundary lines.

Except as provided by subsection (f), this division shall be made before the end of the second year after a year in which a federal decennial census is conducted and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of the following:

- (1) Before January 1, 2016, twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at-large district containing the whole county.
- (2) After December 31, 2015, twenty-five (25) members elected from the districts established under subsection (a).

(c) Each voter of the county may vote for one (1) candidate from the district in which the voter resides.

(d) If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county may petition the superior court of the county to hear and determine the matter. The court shall hear and determine the matter as a five (5) member panel of judges from the superior court. The clerk of the court shall select the judges electronically and randomly. The clerk shall maintain a record of the method and process used to select the judges and shall make the record available for public inspection and copying. Not more than three (3) members of the five (5) member panel of judges may be of the same political party. The first judge selected shall maintain the case file and preside over the proceedings. There may not be a change of venue from the court or from the county. The court may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

(e) An election of the legislative body held under the ordinance or court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid.

(f) This subsection applies during the second year after a year in which a federal decennial census is conducted. If the legislative body determines that a division under subsection (a) is not required, the legislative body shall adopt an ordinance recertifying that the districts as drawn comply with this section.

(g) Each time there is a division under subsection (a) or a recertification under subsection (f), the legislative body shall file with

the circuit court clerk of the county, not later than thirty (30) days after the division or recertification occurs, a map of the district boundaries:

- (1) adopted under subsection (a); or
- (2) recertified under subsection (f).

(h) The limitations set forth in this section are part of the ordinance, but do not have to be specifically set forth in the ordinance. The ordinance must be construed, if possible, to comply with this chapter. If a provision of the ordinance or an application of the ordinance violates this chapter, the invalidity does not affect the other provisions or applications of the ordinance that can be given effect without the invalid provision or application. The provisions of the ordinance are severable.

(i) If a conflict exists between:

- (1) a map showing the boundaries of a district; and
- (2) a description of the boundaries of that district set forth in the ordinance;

the district boundaries are the description of the boundaries set forth in the ordinance, not the boundaries shown on the map, to the extent there is a conflict between the description and the map.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.2; P.L.346-1983, SEC.2; P.L.5-1986, SEC.41; P.L.13-1988, SEC.15; P.L.230-2005, SEC.84; P.L.141-2007, SEC.2; P.L.266-2013, SEC.8; P.L.271-2013, SEC.48; P.L.2-2014, SEC.118.*

#### **IC 36-3-4-3.5**

##### **Territories not included in any district or more than one district**

Sec. 3.5. (a) If any territory in any county is not included in one (1) of the districts established under section 3 of this chapter, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 3 of this chapter, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 3 of this chapter;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

*As added by P.L.3-1993, SEC.260.*

#### **IC 36-3-4-4**

##### **City-county legislative body; expulsion of member; declaration of vacancy; rules**

Sec. 4. The city-county legislative body may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if he is unable to perform the duties of his office; and

(3) adopt its own rules to govern proceedings under this subsection.

However, a two-thirds (2/3) vote is required to expel a member or vacate his seat.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-5**

##### **Special service district council; composition**

Sec. 5. (a) Each special service district of the consolidated city has a special service district council, which is the legislative body of the special service district, but only for the purposes prescribed by section 18(b) of this chapter.

(b) A special service district legislative body is composed of every member of the city-county legislative body.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.3; P.L.346-1983, SEC.1.*

#### **IC 36-3-4-6**

##### **Meetings**

Sec. 6. (a) The city-county legislative body shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. A special service district legislative body shall meet as required by IC 36-3-6.

(b) A special meeting of a legislative body shall be held when called by its president or presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(c) No notice of a regular meeting, or meeting required by statute, need be given to a member of a legislative body. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a member if he:

- (1) attends the meeting; or
- (2) executes a written waiver of notice of the time and place of the meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-7**

##### **Election of president and officers of city-county legislative body**

Sec. 7. At its regular meeting in January each year, the city-county legislative body shall elect a president and other officers as it sees fit.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-8**

##### **Clerk of city-county legislative body; appointment; duties**

Sec. 8. (a) The city-county legislative body shall appoint a clerk

for a term of one (1) year. The clerk serves at the pleasure of the legislative body and continues in office until his successor is appointed and qualified.

(b) The clerk is the clerk of the consolidated city. He shall:

- (1) act as secretary to the legislative body;
- (2) send out all notices of its meetings;
- (3) keep all its records;
- (4) present ordinances and resolutions to the executive under section 15 of this chapter; and
- (5) perform other duties connected with the work of the legislative body that are delegated to him by it.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-8.5**

##### **Employment of attorneys or legal research assistants**

Sec. 8.5. (a) A clerk may hire or contract with competent attorneys or legal research assistants on terms the clerk considers appropriate.

(b) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget.

*As added by P.L.69-1995, SEC.4.*

#### **IC 36-3-4-9**

##### **Quorum**

Sec. 9. A majority of all the elected members of a legislative body constitutes a quorum.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-10**

##### **Ordinance or resolution; majority vote; two-thirds vote**

Sec. 10. (a) A requirement that an ordinance or resolution of a legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance or resolution of a legislative body be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all the elected members.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-11**

##### **Ordinance or resolution; majority vote; joint passage**

Sec. 11. (a) A majority vote of a legislative body is required to pass an ordinance or resolution, unless a greater vote is required by statute.

(b) Any two (2) or more ordinances or resolutions may be jointly passed by the same vote of a legislative body.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-12**

##### **Ordinance requiring two-thirds vote with unanimous consent of members present**

Sec. 12. (a) A two-thirds (2/3) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of a legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to an ordinance that is:

- (1) initiated by a director, board, or commission and does not provide for an appropriation or tax levy or the incurring of any general obligation indebtedness; or
- (2) for a reappropriation or transfer of money previously appropriated by the annual budget ordinance.

Such an ordinance may be passed by a majority vote on the same day or at the same meeting at which it is introduced.

(c) Subsection (a) does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1982, P.L.33, SEC.20; P.L.335-1985, SEC.33.*

### **IC 36-3-4-13**

#### **Ordinance or resolution; public hearing requirement**

Sec. 13. (a) The city-county legislative body need not hold a hearing before passing any ordinance, except an ordinance that:

- (1) provides for the annual budget and tax levy;
- (2) appropriates previously unappropriated monies; or
- (3) provides for any general obligation indebtedness.

(b) Whenever a legislative body is required by statute to hold a public hearing before passing an ordinance or resolution, a hearing held by a committee of the legislative body meets the requirement.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-14**

#### **Ordinance or resolution adoption; requirements**

Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) if subject to veto, either approved by the executive or passed over the executive's veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

- (1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.
- (2) An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.
- (3) A resolution making an appointment that the legislative body is authorized to make.
- (4) A resolution selecting officers or employees of the legislative body.

(5) A resolution prescribing rules for the internal management of the legislative body.

(6) A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

(g) Subject to subsection (k), the legislative body shall:

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

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

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

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

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

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

- (1) approved by the department; and
- (2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.335-1985, SEC.34; P.L.78-2009, SEC.24; P.L.159-2011, SEC.45.*

#### **IC 36-3-4-15**

##### **Ordinance or resolution; passage and presentation**

Sec. 15. After an ordinance or resolution subject to veto has been passed by the city-county legislative body and signed by the presiding officer, the clerk shall present it to the executive, noting on it the time of both the passage and the presentation.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-16**

##### **Ordinance or resolution; approval or veto; executive's failure to perform duty; passage over veto**

Sec. 16. (a) Within ten (10) days after an ordinance or resolution is presented to him, the executive shall:

- (1) approve the ordinance or resolution, by entering his approval on it, signing it, and sending the legislative body a message announcing his approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing his veto and stating his reasons for the veto.

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform his duty under subsection (a), the ordinance or resolution is considered vetoed.

(c) Whenever an ordinance or resolution is vetoed by the executive, it is considered defeated unless the legislative body, at its first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance or resolution over his veto by a two-thirds (2/3) vote.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-17**

##### **Recording of adopted ordinance**

Sec. 17. Within a reasonable time after an ordinance of the legislative body is adopted, the clerk shall record it in a book kept for that purpose. The record must include:

- (1) the signature of the presiding officer;
- (2) the attestation of the clerk;
- (3) the executive's approval or veto of the ordinance;
- (4) if applicable, a memorandum of the passage of the ordinance over the veto; and
- (5) the date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-18**

#### **City-county legislative body; ordinances and resolutions; permitted acts; special service district legislative body; powers**

Sec. 18. (a) The city-county legislative body may pass ordinances and resolutions for the government of the consolidated city and the county. The legislative body:

- (1) alone may approve budgets, levy taxes, and make appropriations for the consolidated city, its departments, and its special taxing districts, except the appropriation of the proceeds of the bonds of a special taxing district if the legislative body has approved the bond issue;
- (2) may make loans for the consolidated city under sections 21 and 22 of this chapter;
- (3) alone may approve budgets, levy taxes, and make appropriations for the county;
- (4) may make loans for the county under IC 36-2-6-20;
- (5) may pass ordinances prescribing a penalty or forfeiture for violation;
- (6) may establish committees having powers as prescribed by ordinance; and
- (7) may prescribe rules for its internal management.

(b) The special service district legislative body of any special service district shall, with respect to such district, have exclusive power by ordinance to approve its budget and make appropriations and tax levies required to be made under the provisions of this title. No special service district legislative body shall have authority to originate or separately to adopt any other ordinance. However, any ordinance adopted by the city-county legislative body relating solely or exclusively to a special service district shall be suspended and of no effect until separately approved and concurred in by a majority of a special service district legislative body when, but only when, the Constitution of the United States or the Constitution of Indiana prohibits such taking effect without such approval.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-19**

#### **City-county legislative body; statutory powers and duties**

Sec. 19. (a) The city-county legislative body shall perform the duties and may exercise the powers prescribed by statute for:

- (1) the common council of a first class city; or
- (2) the county council of the county.

(b) The city-county legislative body may exercise any power prescribed for the board of commissioners of the county by statute:

- (1) to pass any ordinance; or
- (2) to pass any rule or regulation prescribing a penalty.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-20**

#### **City-county legislative body; statutory appointments**

Sec. 20. The city-county legislative body shall make all

appointments required by statute to be made by it or by:

- (1) the common council of a first class city; or
- (2) the county council of the county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-21**

##### **City-county legislative body; making loans and issuing bonds by ordinance; procedure for issuing bonds**

Sec. 21. (a) The city-county legislative body may, by ordinance, make loans of money for the consolidated city and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city and for the payment of city debts.

(b) An ordinance adopted under this section:

- (1) must include the terms of the bonds to be issued in evidence of the loan;
- (2) must include the time and manner of giving notice of the sale of the bonds;
- (3) must include the manner in which the bonds will be sold; and
- (4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by the city under this section:

- (1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
- (2) may bear interest at any rate;
- (3) may run not longer than thirty (30) years;
- (4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and
- (5) may be sold for not less than par value.

(e) The fiscal officer of the consolidated city shall:

- (1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
- (2) deliver them to the county treasurer after they have been properly executed and shall take his receipt for them; and
- (3) when a contract for the sale of all or any part of the bonds is consummated, certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser.

The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall perform his duties under this subsection.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-22**

#### **City-county legislative body; temporary or short-term loans in anticipation of current revenues; procedures**

Sec. 22. (a) The city-county legislative body may, by ordinance, make temporary loans in anticipation of current revenues of the consolidated city that have been levied and are being collected for the fiscal year in which the loans are made. Loans under this subsection shall be made in the same manner as loans under section 21 of this chapter, except that:

- (1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and
- (2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(b) The city-county legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the consolidated city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the consolidated city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 21 of this chapter, except that:

- (1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans; and
- (2) the loans must be evidenced by notes of the consolidated city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.37-1988, SEC.22; P.L.2-1989, SEC.24.*

### **IC 36-3-4-23**

#### **City-county legislative body; creation of agencies; transfer of agency powers**

Sec. 23. (a) The city-county legislative body may, by ordinance:

- (1) create or terminate departments, divisions, offices, community councils, and other agencies of the consolidated city; and
- (2) transfer to or from those agencies any powers, duties, functions, or obligations.

(b) The powers granted by subsection (a) may not be applied to:

- (1) the department of public utilities of the consolidated city;

- (2) offices established by the Constitution of Indiana; or
- (3) agencies of municipal corporations other than the consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-24**

##### **Departments; investigation of policies and expenditures; audit of books and records; other investigations**

Sec. 24. (a) For each department of the consolidated city, the city-county legislative body shall establish a standing committee, having at least three (3) members, to investigate the policies and expenditures of the department.

(b) The legislative body or its committee may:

- (1) hire an internal auditor or an independent certified public accountant, or both, to examine the books and records of the consolidated city, any of its special service districts or special taxing districts, and the county;
- (2) investigate any charges against a department, officer, or employee of the consolidated city, or any of its special service districts or special taxing districts, or the county; and
- (3) investigate the affairs of a person with whom a city or county agency has entered or is about to enter into a contract.

(c) When conducting an investigation under this section, the legislative body or its committee:

- (1) is entitled to access to all records pertaining to the investigation; and
- (2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in the county.

(d) If a person refuses to testify or produce evidence at an investigation conducted under this section, the legislative body may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce evidence, or both.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.4; P.L.14-2000, SEC.79.*

#### **IC 36-3-4-25**

##### **Repealed**

*(Repealed by Acts 1980, P.L.73, SEC.23.)*

#### **IC 36-3-4-26**

##### **Repealed**

*(Repealed by Acts 1980, P.L.73, SEC.23.)*

## **IC 36-3-5**

### **Chapter 5. Appointed Officers, Departments, and Boards**

#### **IC 36-3-5-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each consolidated city and its county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-5-2**

##### **Deputies and directors; acting deputies and directors; controller and deputy controllers; corporation counsel**

Sec. 2. (a) The executive shall appoint each of the executive's deputies and the director of each department of the consolidated city. The executive's initial appointment of a deputy or director is subject to the approval of the city-county legislative body. A deputy or director is appointed for a term of one (1) year and until a successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a) to fill an office that has been vacated, the executive shall submit the name of an appointee to an office to the legislative body for its approval not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

- (1) a controller;
- (2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and
- (3) a corporation counsel;

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.334-1985, SEC.1; P.L.227-2005, SEC.21; P.L.266-2013, SEC.9.*

#### **IC 36-3-5-2.5**

##### **Controller as fiscal officer and director of office of finance and management; county treasurer as ex officio treasurer**

Sec. 2.5. (a) The controller appointed under section 2 of this chapter is:

- (1) the fiscal officer of:
  - (A) the consolidated city; and
  - (B) the county; and
- (2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer serves ex officio as the treasurer of the consolidated city.

*As added by Acts 1981, P.L.11, SEC.158. Amended by P.L.227-2005, SEC.22.*

#### **IC 36-3-5-2.6**

##### **Immunity of controller and deputy controllers; exception for gross negligence**

Sec. 2.6. The:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

*As added by P.L.67-2002, SEC.4. Amended by P.L.227-2005, SEC.23.*

#### **IC 36-3-5-2.7**

##### **Office of finance and management; responsibilities; controller serves as director**

Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds.

*As added by P.L.227-2005, SEC.24.*

#### **IC 36-3-5-2.8**

##### **Powers and duties of controller**

Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a

member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

- (1) the controller;
- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

*As added by P.L.227-2005, SEC.25.*

### **IC 36-3-5-3**

#### **Deputy mayors; number; nature of office**

Sec. 3. (a) The city-county legislative body shall, by ordinance, fix the number of deputy mayors of the consolidated city and the county.

(b) A deputy mayor serves as a deputy of the executive and has only the powers delegated to him by the executive in accord with ordinances of the legislative body, except when he is designated as acting executive under IC 36-3-3-3.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-5-4**

#### **Establishment; powers and duties of executive departments; department of public utilities**

Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

- (1) Department of administration and equal opportunity.
- (2) Department of metropolitan development.
- (3) Department of public safety.
- (4) Department of public works.
- (5) Department of transportation.
- (6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.18; P.L.227-2005, SEC.26.*

### **IC 36-3-5-5**

#### **Director of department as chief administrative officer; divisions; appointment of administrator; powers of director**

Sec. 5. (a) The director of a department is its chief administrative officer and shall exercise the powers of the department, subject to the authority granted to any board or commission in the department.

(b) A department may be administratively organized by divisions. If it is, the director shall, subject to the approval of the executive, appoint an administrator to be the head of each division, unless this title provides that the appointment be made otherwise. An administrator serves at the pleasure of the executive.

(c) The director of a department may:

(1) approve the hiring and dismissal of the administrator of each division and all other personnel of the department, subject to limitations prescribed by this title and rules adopted by the executive; and

(2) delegate to personnel of the department authority to act on his behalf.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-5-6**

#### **Establishment; powers and duties; membership of administrative boards; metropolitan development commission**

Sec. 6. (a) Administrative boards are established in the departments listed in sections 4(a)(3), 4(a)(4), 4(a)(5), and 4(a)(6) of this chapter, to be known respectively as the board of public safety, the board of public works, the board of transportation, and the board of parks and recreation. These boards have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23. In addition, the metropolitan development commission, which is established in the department of metropolitan development by IC 36-7-4-202, has all the powers, duties, functions, and obligations prescribed by law for it as of August 31, 1981, subject to IC 36-3-4-23.

(b) Each board established under this section is composed of five (5) members as follows:

(1) The director of its department, who serves as presiding officer of the board.

(2) Two (2) members appointed by the executive.

(3) Two (2) members appointed by the city-county legislative body.

A member appointed under subdivision (2) or (3) is appointed for a term of one (1) year and until his successor is appointed and qualified, but serves at the pleasure of the appointing authority.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.19.*

### **IC 36-3-5-7**

#### **Administrative boards; meetings; notice; quorum; majority vote**

Sec. 7. (a) This section applies to each board established under section 6 of this chapter.

(b) A board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution.

(c) A special meeting of a board shall be held when called by its presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(d) No notice of a regular meeting, or meeting required by statute, need be given to a member of a board. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a member if he:

- (1) attends the meeting; or
- (2) executes a written waiver of notice of the time and place of the meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

(e) A majority of all the members of a board constitutes a quorum.

(f) A majority vote of all the members of a board is required to pass a resolution.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-5-8**

#### **Special taxing district; power to issue bonds, notes, or warrants; approval; issuance procedure**

Sec. 8. (a) This section applies whenever a special taxing district of the consolidated city has the power to issue bonds, notes, or warrants.

(b) Before any bonds, notes, or warrants of a special taxing district may be issued, the issue must be approved by resolution of the legislative body of the consolidated city.

(c) Any bonds of a special taxing district must be issued in the manner prescribed by statute for that district, and the board of the department having jurisdiction over the district shall:

- (1) hold all required hearings;
- (2) adopt all necessary resolutions; and
- (3) appropriate the proceeds of the bonds;

in that manner. However, the legislative body shall levy each year the special tax required to pay the principal of and interest on the bonds and any bank paying charges.

(d) Notwithstanding any other statute, bonds of a special taxing district may:

- (1) be dated;
- (2) be issued in any denomination;
- (3) except as otherwise provided by IC 5-1-14-10, mature at any time or times not exceeding fifty (50) years after their date; and
- (4) be payable at any bank or banks;

as determined by the board. The interest rate or rates that the bonds will bear must be determined by bidding, notwithstanding IC 5-1-11-3.

(e) Bonds of a special taxing district are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the following:

- (1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.
- (2) The giving of notice of a hearing on the appropriation of the

proceeds of bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) 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).

(6) The sale of bonds at public sale.

(7) The maximum term or repayment period provided by IC 5-1-14-10.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.90-2002, SEC.470; P.L.219-2007, SEC.113; P.L.146-2008, SEC.703.*

### **IC 36-3-5-9**

#### **Standard forms for use in transaction of business**

Sec. 9. The controller shall furnish standard forms for use in the:

(1) transaction of business; and

(2) performance of services for which the consolidated city or county receives a specific fee.

*As added by P.L.227-2005, SEC.27.*

### **IC 36-3-5-10**

#### **Suits against principals and sureties on obligations**

Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.

*As added by P.L.227-2005, SEC.28.*

### **IC 36-3-5-11**

#### **Treasurer's report; filing**

Sec. 11. The controller shall:

(1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;

(2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and

(3) immediately transmit one (1) copy of the report to the state board of accounts.

*As added by P.L.227-2005, SEC.29.*

### **IC 36-3-5-12**

#### **Personal liability for penalties and interest assessed by Internal Revenue Service; reimbursement**

Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the

Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.

(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

*As added by P.L.227-2005, SEC.30.*

## **IC 36-3-6**

### **Chapter 6. Budget Procedures and Compensation of Officers and Employees**

#### **IC 36-3-6-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each consolidated city and its county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-6-2**

##### **Compensation of elected officers**

Sec. 2. The city-county legislative body shall, by ordinance, fix the annual compensation of all elected consolidated city and county officers. Their compensation may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the year 1980.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.20.*

#### **IC 36-3-6-3**

##### **Compensation of appointed officers, deputies, and employees; exceptions and limitations on appropriations**

Sec. 3. (a) A legislative body shall, by ordinance or resolution, fix the annual compensation of all appointed officers, deputies, and employees under its jurisdiction. This may be done by adopting schedules of compensation. The schedules of compensation may include a provision for salaried employees whose salaries are paid on an annual basis. Salaried employees shall work a regularly scheduled work week, in accordance with the schedule of compensation.

(b) The city-county legislative body has jurisdiction over all appointed officers, deputies, and employees:

- (1) of the consolidated city, except those of special service districts; or
- (2) whose compensation is payable from the county general fund or any other fund from which the county auditor issues warrants for compensation.

A special service district legislative body has jurisdiction over all appointed officers, deputies, and employees of the special service district.

(c) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys, and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the city-county legislative body may make appropriations to pay them more than the minimums fixed by statute. Beginning July 1, 1995, an appropriation made under this subsection may not exceed five thousand dollars (\$5,000) for each judge or full-time prosecuting attorney in any calendar year.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.44-1986, SEC.2; P.L.16-1986, SEC.78; P.L.279-1995, SEC.22; P.L.280-1995,*

*SEC.24; P.L.2-1996, SEC.291.*

#### **IC 36-3-6-4**

##### **Budget estimates; preparation; verified certificate; courts; submission**

Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each township assessor (if any), elected county officer, or head of a county agency.

(3) The county clerk, for each court the clerk serves.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate the officer prepares stating that in the officer's opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers and county officers shall be submitted to the controller.

(g) The controller shall also prepare an itemized estimate of city and county expenditures for other purposes above the money proposed to be used by the city departments and county officers and agencies.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.196-1984, SEC.2; P.L.227-2005, SEC.31; P.L.146-2008, SEC.704.*

#### **IC 36-3-6-5**

##### **Review and revision of estimates; report and recommendations; determination of amounts**

Sec. 5. (a) The controller shall review and revise the estimates of expenditures submitted under section 4 of this chapter. Then the controller shall prepare for the executive a report of the estimated budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates, along with the controller's recommendations.

(b) The executive shall determine the amounts to be included in the proposed appropriations ordinance by the controller and advise the controller of those amounts.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.227-2005, SEC.32.*

### **IC 36-3-6-6**

#### **Proposed ordinances; appropriations; rate of taxation; submittal**

Sec. 6. (a) The controller shall, with the assistance of the corporation counsel, prepare:

- (1) proposed appropriations ordinances for the city and county and each special service district; and
- (2) proposed ordinances fixing the rate of taxation for the taxes to be levied for all city and county departments, offices, and agencies.

The proposed appropriations ordinances must contain all the amounts necessary for the operation of consolidated government, listed in major classifications.

(b) The controller shall submit the proposed ordinances prepared under subsection (a) along with appropriation detail accounts for each city and county department, office, and agency, to the city clerk not later than the first meeting of the city-county legislative body in August.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.52, SEC.6; P.L.227-2005, SEC.33.*

### **IC 36-3-6-7**

#### **Proposed ordinances; fixing and reviewing budgets, tax rates, and levies**

Sec. 7. (a) The city-county legislative body and the special service district legislative bodies shall act on ordinances proposed under this chapter in the manner prescribed by IC 6-1.1-17.

(b) A tax levied by the consolidated city for a department or division having territorial jurisdiction over the whole county shall be levied on property in the whole county, and the money received from that tax shall be paid into a fund to be known as the consolidated county fund. A tax levied by the consolidated city for a department or division having territorial jurisdiction only inside the corporate boundaries of the consolidated city shall be levied only on property in the consolidated city. A tax levied for support of a special service district shall be levied only on property in the special service district. A tax or special tax to finance the operations, improvements, or debt service of a special taxing district shall be levied only on property in the special taxing district. A tax to be levied by the county or consolidated city for any other function shall be levied only on property in the territorial jurisdiction affected.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.82-1985, SEC.2.*

### **IC 36-3-6-8**

#### **Additional appropriations**

Sec. 8. After the passage of an appropriations ordinance, a legislative body may, on the recommendation of the controller, as to all city and county matters, make further or additional appropriations, unless their result is to increase a tax levy set by ordinance.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981,*

*P.L.11, SEC.160; P.L.227-2005, SEC.34.*

**IC 36-3-6-9**

**Operating and maintenance budgets and tax levies of certain entities; review and modification; adoption; submittal**

Sec. 9. (a) Except as provided in subsection (d), the city-county legislative body shall review the proposed operating and maintenance budgets and tax levies and adopt final operating and maintenance budgets and tax levies for each of the following entities in the county:

- (1) An airport authority operating under IC 8-22-3.
- (2) A public library operating under IC 36-12.
- (3) A capital improvement board of managers operating under IC 36-10.
- (4) A public transportation corporation operating under IC 36-9-4.
- (5) A health and hospital corporation established under IC 16-22-8.
- (6) Any other taxing unit (as defined in IC 6-1.1-1-21) that is located in the county and has a governing body that is not comprised of a majority of officials who are elected to serve on the governing body.

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before September 2.

(c) The city-county legislative body or, when subsection (d) applies, the fiscal body of an excluded city or town shall review the issuance of bonds of an entity listed in subsection (a). Approval of the city-county legislative body or, when subsection (d) applies, the fiscal body of an excluded city or town is required for the issuance of bonds. The city-county legislative body or the fiscal body of an excluded city or town may not reduce or modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:

- (1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or
- (2) in any way impair the rights or remedies of the holders of the entity's bonds.

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval and not the city-county legislative body. Except as provided in subsection (c), the fiscal body of the excluded city or town may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981,*

*P.L.52, SEC.7; P.L.347-1983, SEC.1; P.L.2-1993, SEC.201; P.L.1-2005, SEC.237; P.L.227-2005, SEC.35; P.L.1-2006, SEC.561; P.L.146-2008, SEC.705; P.L.182-2009(ss), SEC.401; P.L.137-2012, SEC.118.*

### **IC 36-3-6-10**

#### **Allotment of appropriations by controller**

Sec. 10. (a) As used in this section, "appropriation adopted by the county fiscal body" means all appropriations, including any additional or supplemental appropriations, made by the county fiscal body for the calendar year covered by the allotment schedule.

(b) As used in this section, "office, department, or agency" means any office, department, or agency of the consolidated city or the county having a consolidated city.

(c) Each year shall be divided into two (2) semiannual allotment periods, beginning respectively on the first day of January and July. However, in any case where the semiannual allotment period is impracticable, the controller may prescribe a different period suited to the circumstances but not extending beyond the end of any calendar year.

(d) Except as provided in subsection (e), the allotment system and the encumbering of funds apply to appropriations and funds of all kinds, including dedicated funds from which expenditures are made under the authority of any office, department, or agency.

(e) The allotment system does not apply to the following:

(1) Money made available for the purpose of conducting a post-audit of financial transactions of any office, department, or agency.

(2) Appropriations for construction or for the acquisition of real estate for public purposes that are exempted from the allotment system by the executive of the consolidated city.

(f) An appropriation to any office, department, or agency is not available for expenditure until allotted by the controller.

(g) The controller shall prescribe the form of a request for allotment.

(h) Not later than December 1, each office, department, or agency shall submit to the controller a proposed semiannual allotment schedule for the succeeding calendar year. The proposed allotment schedule must reflect the amounts appropriated, by fund and character, by the county fiscal body for the calendar year.

(i) Not later than December 15, the controller shall make a determination as to whether the anticipated revenues for the succeeding calendar year will be adequate to support the appropriations adopted by the county fiscal body for the succeeding calendar year. The controller's determination must take into consideration the need to maintain adequate reserves for the city and county.

(j) If, in the controller's judgment, the anticipated revenues are adequate to support the appropriation adopted by the county fiscal body, the controller shall approve the proposed allotment schedule as

submitted by an office, department, or agency.

(k) If, in the controller's judgment, the anticipated revenues are not adequate to support the appropriation adopted by the county fiscal body, the controller shall revise the proposed allotment schedule as submitted by an office, department, or agency to reflect anticipated revenues.

(l) If, after the controller approves the allotment schedule under subsection (j), the controller determines during the calendar year that the anticipated revenues are not adequate to support the appropriation adopted by the county fiscal body, the controller may revise the proposed allotment schedules as submitted by an office, department, or agency to reflect anticipated revenues.

(m) If, after the controller revises the proposed allotment schedule under subsection (k), the controller determines during the calendar year that the anticipated revenues are adequate to support the appropriation adopted by the county fiscal body, the controller shall revise the proposed allotment schedules up to one hundred percent (100%) of the amount of the appropriation adopted by the county fiscal body for an office, department, or agency.

(n) The controller shall notify every office, department, or agency of the allotments:

- (1) at least five (5) days before the beginning of each allotment period; and
- (2) not more than five (5) days after the beginning of a revised allotment period under subsection (k) or (l).

The controller shall promptly transmit records of all allotments and modifications to the county auditor and the county fiscal body. If the controller proposes to reduce the allotment schedule in excess of five percent (5%) of the total amount of the appropriation adopted by the county fiscal body, the controller shall submit a fiscal justification to the county fiscal body before the beginning of the revised allotment period.

*As added by P.L.266-2013, SEC.10.*

## **IC 36-3-7**

### **Chapter 7. Miscellaneous Fiscal and Administrative Provisions**

#### **IC 36-3-7-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each consolidated city and its county. In addition, IC 36-4-8 applies to the consolidated city, and IC 36-2-6 applies to the county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-7-2**

##### **Money consolidated city is entitled to receive**

Sec. 2. The consolidated city is entitled to receive the following monies, as they become available, to use in carrying out the powers, duties, and obligations of the consolidated city and its special service districts and special taxing districts:

- (1) Revenues from the levies of taxes or special taxes on property or otherwise as prescribed by law.
- (2) The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county in the motor vehicle highway account as prescribed by IC 8-14-1.
- (3) All public money, whether held in general accounts, special accounts, trusts, or otherwise, or receivable by the county or the consolidated city, or its departments, special taxing districts, or special service districts, that is budgeted or made available for functions conferred on the consolidated city or its departments or districts.
- (4) All money that becomes available from the federal government or any federal agency organized for the disbursement or allocation of federal monies in furtherance of powers conferred on the consolidated city or its departments or districts.
- (5) All money appropriated in furtherance of the powers conferred on the consolidated city.
- (6) All money received as proceeds from the sale of bonds by the consolidated city or its special taxing districts.
- (7) All parking fees and mass transportation revenues collected by the department of transportation under IC 36-9.
- (8) All money received by the consolidated city from the exercise of its powers or control and use of its property.
- (9) All money in the cigarette tax fund available for distribution to the consolidated city or the department of transportation as prescribed by IC 6-7-1-30.1.
- (10) The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county as prescribed by IC 7.1-4-7 pertaining to alcoholic beverage fees and taxes.
- (11) Any other money available for distribution by the state under any statute, according to that statute.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-7-3**

#### **Basis for determining right to receive distribution of money**

Sec. 3. (a) For purposes of determining the right of the consolidated city to receive a distribution of money described by section 2 of this chapter based on population, the population of the fire special service district is considered the population of the consolidated city.

(b) Notwithstanding subsection (a), for purposes of determining the right of the consolidated city to receive a distribution of money under IC 7.1-4 based on population, the population of all the territory of the consolidated city is considered its population.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-7-4**

#### **Administering of money held, appropriated, contributed for specific function, or in special fund or trust**

Sec. 4. Whenever any money is held, appropriated, or contributed for a specific function, or in a special fund or trust, the consolidated city, or its special service district or special taxing district, shall administer that money according to the requirements and limitations placed on its use.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-7-5**

#### **Perfecting tax or assessment liens**

Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when evidenced on the tax duplicate in the office of the treasurer of the county.

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's or county assessor's record and a description of the property.

(c) The amount of a lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.131-2005, SEC.6; P.L.146-2008, SEC.706.*

### **IC 36-3-7-6**

#### **Use of county option income tax revenue**

Sec. 6. The governing body of a public library located in the county may recommend and the county fiscal body may elect to provide revenue to the public library from part of the certified

distribution, if any, that the county is to receive during that same year under IC 6-3.5-6-17. To make the election, the county fiscal body must adopt an ordinance before November 1 of the preceding year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to provide revenue to the public library. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor.  
*As added by P.L.135-2011, SEC.2.*